

THE BRITISH JOURNAL OF CRIMINOLOGY

Vol. 2

July, 1961

No. 1

EDITORIAL

IN the long drawn out contest for precedence in the criminological field between the psychiatrist with his emphasis on the subjective dynamic factors that, he feels, determine the behaviour of the individual and those sociologists who are concerned with the cultural (group) values which, they feel, ultimately determine the fate both of the individual and of society, the fortunes of war fluctuate. And although in itself a reasonable enough development, the creation of a science of social psychiatry does not so far appear to have resolved the conflict. So it is refreshing when one or other of the protagonists subjects his own disciplines to scrutiny and presents us with his conclusions. Dr. Burns renders precisely this service when he pauses at work to ask himself what is the role of the psychiatrist "visiting" a social or group organisation such as an approved school or school for maladapted children.

Dr. Burns answers this question by stating roundly that, provided he plays his part adequately, the "visiting" psychiatrist may come to be regarded as "a lynch-pin of the establishment." Without employing any special psycho-therapeutic techniques he can, for example, be of service by advising as to the disposal of intractable cases or shed light on otherwise inexplicable behaviour, help in the selection or rejection of residents and assist in solving some of the problems of discharge. He can hold the balance between conflicting forces, *i.e.*, the child, its parents, the hostel staff and the clinic team, or in more general terms between "those who have sympathy, understanding and 'therapeutic love' and those who have not."

As for the results of psychiatric "visiting" the main point

underlined by Dr. Burns is that, whether we speak in terms of "transference" (an interpersonal concept) or "rapport" (a social concept), and provided we know what we are doing, even curtailed or sporadic contact with the child can yield good results. At the same time as a social psychiatrist he maintains that the chief therapeutic agent is the "group in the hostel and its way of life," adding, however, like a good psycho-biologist, that with adequate residential treatment, a maturation factor is given a good chance of operating to the benefit of the child's capacity for adaptation.

These conclusions are, of course, encouraging to psychiatrists, to the school staff and to the authorities responsible in the first instance for sending children to such teaching institutions: but they leave the questions of etiological and therapeutic priority unanswered. Nor does the customary gentleman's agreement that individual and social factors interact answer them. To take one instance, if successful measures of prevention are to be effected, we must know *at what point in growth* they can be applied most successfully. Here the Freudian concepts of symptom-formation would seem to offer the most fruitful approach, viz., that three sets of factors operate in behaviour disorders: (a) constitutional; (b) predisposing or developmental; and (c) immediate or precipitating factors. The first are psycho-biological in nature, the second psycho-familial and the third psycho-social. It might conceivably accelerate our researches in diagnosis and therapy if those responsible for maladjusted children were to shelve questions of professional status and follow these three avenues of approach wherever the clinical material leads them. A family history is after all a study in sociology; a sociologist examining the housing problem is *ipso facto* a psychiatrist abroad, and all visitors to remedial institutions are wittingly or unwittingly practising psycho-therapy; whether good, bad or indifferent is another story.

To those readers who regard the above formulations as much too generalised and diplomatic, we recommend perusal of the study of a delinquent family which its author, Miss G. W. Elles, has entitled "The Closed Circuit." For here they will discover some of the reasons why many sociologists and even some social psychiatrists

find themselves at issue with dynamic psychiatrists and psychoanalysts concerning the etiology of delinquency and deviant behaviour. Descriptively regarded, this article is a study of a family setting and belongs therefore to the second group of factors outlined above, viz., the psycho-familial. Examined more closely, however, it is seen to have two aspects: first, the existing family situation in which the participants are for various reasons shut off from external contact and have difficulty in accepting therapeutic assistance from without; and, second, a familial "stage" on which are "acted out" various "psycho-dramas" based on the experiences and phantasies of early childhood. This second group is further divisible into reality experiences and conscious phantasies on the one hand and, on the other, unconscious phantasies (essentially unconscious interpretations made by the child). It is this interaction, not so much between the family and the individual as between conscious experiences and unconscious interpretations of experience that constitutes the "endopsychic developmental factor." In the case described by Miss Elles, for example, the various acts in the various psycho-dramas have an immediate import and consequence: but the force behind them is held to be the compulsion to act out developmental situations. These are interpreted in terms of various unconscious interests, phantasies, and mechanisms, amongst others apparently powerful "projective identifications." The crux of the matter is therefore whether the sociologist, the social psychiatrist and the clinical psychiatrist are content to take descriptive and introspective data at their face value or whether they are ready to consider that such data and introspections are not always (possibly ever) what they seem. Sociological commonsense tends to say "No." But on the other hand, the "endopsychic" observer can point to the fact that neither delinquent behaviour nor, for that matter, the behaviour and thoughts of infants and young children are governed by common sense. There is indeed something to be said for Freud's recommendation—viz., to permit dynamic psychiatrists "a little bit of free elaboration" of their favourite interpretations. Naturally, the child psychiatrist should in return refrain from speaking *ex cathedra*. Miss Elles does just that: she is prepared to let the reader take her conclusions or leave them.

PSYCHIATRIC TREATMENT OF CHILDREN IN A RESIDENTIAL SETTING

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I

THE ROLE OF THE PSYCHIATRIST †

THE role of a psychiatrist visiting an institution such as an approved school or school for maladjusted children at intervals—perhaps only monthly—must appear to be a very ancillary one; one might wonder whether it is worth while. There may be a certain kudos for the institution in having a visiting psychiatrist, and to the psychiatrist it may provide a pleasant outing once in a while! Nevertheless, there is more to it than that, as I hope to show; and indeed the psychiatrist who plays his role adequately may come to be regarded as a lynch-pin of the establishment.

The discussion of his role may be considered under some of the following headings: what is expected of him; what he can give; the element of the situation in which he finds himself; the material he works upon; the possible techniques; the advantages and difficulties of such a position. Discussion of these matters would be of little value if too theoretical: it must be based on one's experience. For a number of years I visited two schools for maladjusted children on a monthly basis, arriving on a Saturday afternoon and leaving the following morning. Both were independent schools, one junior and one senior—both very good of their kind. At present I give a monthly session to two approved schools for boys. I have also done a weekly session at a senior boys' remand home for very many years and paid frequent regular visits to a hostel for senior maladjusted boys.

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† Paper read at an I.S.T.D. Weekend Course for Psychiatrists held at Avoncroft College, Bromsgrove, June 24-26, 1960.

It is obvious that there must be very great variety in such institutions, and that this variety derives not only from the purpose for which they are run, but also, and most importantly, from the personality of those who run them. What one is able, or unable, to give will depend therefore to some extent on the relationship which one establishes with the particular warden or headmaster or principal.

Ways of Co-operation

What one may be expected to give may be considered from the point of view, first of all, of the institution and those who run it, and, secondly, from the point of view of the children in it. The headmaster of an approved school told me that he saw at least one important if somewhat negative advantage of having a psychiatrist: that it absolved him from the responsibility of deciding what to do with boys whom he feels to be particularly unsuitable or dangerous in his school. In addition to this the psychiatrist may be able to shed some light on some inexplicable change in behaviour or attitude in a boy. He may also be able to pass on causes of dissatisfaction in the boy, *e.g.*, with regard to his treatment by some master. He may be able to suggest some form of interest or outlet for a particular boy hitherto not available to him. Last, but not least, it affords the person in charge the opportunity to open his heart about his own problems in relation to the school and its running to someone who is, or should be, a knowledgeable and sympathetic listener.

Among other, more obvious, ways in which the psychiatrist may help are the selection or rejection of cases and decisions as to when to discharge. (I am speaking now of schools or hostels for the maladjusted and not of approved schools.) The latter is often a difficult decision and one which can be crucial. It can be influenced by the pressure of a waiting list, by the bad effect which a boy may be having on the institution, and also by parental pressure to have a child home. There is also a common and natural tendency on the part of the institution to hang on to a boy a little too long, and perhaps miss the psychological moment when he is ready to go. It is more likely, however, at least in a school for maladjusted children, that the psychiatrist will be called upon to say: "wait and see"—

to counsel a patient expectation of the moment when the child will reach the turn of the tide.

It is perhaps in a hostel setting that the psychiatrist has the most active part to play, if the hostel is taken to be an extension of the child guidance clinic, continuing the therapeutic work of the clinic with the family, while the child is temporarily removed from his home.

Dr. Ratcliffe and others pointed out, in a paper on "Parent, Child and Therapeutic Team in a Hostel Setting," that the psychiatrist has a central position in so far as he holds the balance between what may at times be conflicting forces: the child, the parents, the hostel staff, and the clinic team. Any of these may at times be inclined to play off one element in the situation against another. I quote: "He is the psychiatric consultant (in the real meaning of that much misused word) to the team, and it is for him to see the whole dynamic pattern. . . . In addition to his professional experience, he has another important asset for the task. He is less likely to be so closely attached to either hostel or parental home as even the most insightful matron or psychiatric social worker. From that slightly greater degree of detachment he can help each 'side' to see the viewpoint of the other when any discussion involves possible rivalries."

The role of the psychiatrist will obviously vary according to the type of school concerned, and still more with the attitude, the views and personality of the person in charge. Thus in the case of residential schools for maladjusted children we find great variety. They range from those which are based—both in theory and in practice—upon the tenets of dynamic psychology, to those which are merely good boarding schools based on common sense, a certain amount of intuition and ordinary discipline. In the former the children's behaviour is considered to be symptomatic of underlying unconscious motivation, and is therefore to be tolerated rather than corrected too soon. In these schools there is a more individual approach, and a constant manipulation of the environment as a therapeutic tool for the individual child. One may say that independent schools tend to conform more to the latter type, and schools run by some authority to the former, more conventional, pattern.

The same distinction is coming to apply to approved schools, though here the contrasts may be more extreme. The heads of approved schools who have this deeper insight and awareness of the dynamic needs of delinquents are very conscious of the handicaps of large numbers even when split into houses, and of the necessarily rather rigid routine of such a school, which renders an individual approach very difficult.

Nevertheless, the difference which really counts and is vital to the child is not one of theory and conscious practice so much as one between those who have the gift of sympathy, understanding, and all the qualities contained in what may be called "therapeutic love," and those who have not.

In any case, and in every kind of institution, the psychiatrist can do much in the way of gradual indoctrination—and I very much stress the word "gradual." This he can do largely by the method of case conferences, which are usually welcomed by the staff as providing a pleasant break in routine, as well as helping them to a clearer understanding of difficult cases. The consideration of a case in its many facets, as observed by different people, both past and present, having some knowledge of or relationship with the child, can enable everybody concerned to see the child in the round, against a deeper background.

It is natural for those in daily contact with individuals to tend to become almost exclusively concerned with the here-and-now aspect, and to forget the background from which they have emerged. To start again from the beginning, to place the present in perspective with the past will help them to see individuals in a deeper dimension, with greater understanding. This is probably the best way to bring individuals to an understanding of the idea of unconscious motivation and of different aspects of dynamic psychology. But it must be done tactfully and without recourse to analytic jargon. Anything too esoteric or "shocking" brought forward by an enthusiastic but inexperienced psychiatrist may render him an object of derision rather than respect, and completely upset the role which he might play.

One can often sense a defence on the part of a warden or head, when psychological explanations are put forward, and if that is the

case it is best to change one's tactics or at least one's semantic approach, and bide one's time. It is all too easy to produce a feeling of implied criticism by suggesting a type of explanation or a form of approach which is too alien to that person's temperament, thought, and tradition. Moreover he may think, justly enough, that he has far more intimate knowledge of his cases than any itinerant psychiatrist.

Material and Technique

What do the inmates of the institution get or expect to get from the psychiatrist? Is he a go-between? another father-mother figure? a *deus-ex-machina*? He is a little of all these.

Some will bring him nothing but complaints and grievances—about authority, about food, about unfairness. Some will be full of self-pity. Some will bluff and deny that there is anything wrong at all. Some will reveal a hidden wound or sorrow and the emotion which it holds. Quite often I have found that boys have wanted some explanation in respect of their family. Illegitimate children without a father or, much worse, abandoned by their mother; adopted children; those with criminal parents. It is quite common to find boys who come from a children's home who have never been told anything as to their origin and background, have needed desperately to know, and have never dared to ask. Their sexual life may also present problems for reassurance. They are always wanting to know when they are likely to return home; and here much tact is necessary, because they expect one to have the power to open doors. What boys will bring depends of course on what we ask of them, and if we know their inmost needs it is our most urgent and delicate task to get them to reveal them without forcing a confidence or violating their privacy. What they must have, however, from us is encouragement in the sense of their leaving us with a little added feeling of being understood, of being thought more adequate and worth-while, and of being helped to go forward with a little more confidence and courage.

What about the material that we are concerned with? Is anything to be gained by trying to classify the different types that we meet with, if only to arrive at some prognosis? There are those who

like classification and those who do not. I am one of the latter. One does, however, often feel the need to decide on the depth and nature of a disturbance—how far the behaviour, past and present, has been in the nature of a reaction to circumstances—almost a normal response to partial rejection, from discipline and the rest—and how far the events of life have created a character-disorder or potential psychopathy in them.

Aichhorn distinguished between (1) "borderline neurotic cases with dissocial symptoms" and (2) "dissocial cases in which that part of the ego giving rise to the dissocial behaviour shows no trace of neurosis." Friedlander described the formation of what she termed the anti-social character in which the instinctive urges remain unmodified and strong, the weak ego acting by the pleasure-principle, not supported by the super-ego. This development, she held, gave rise to a state of "latent delinquency" which any unfavourable circumstances might bring out into the open. But whatever the mechanism of this character formation, apart from the processes of identification and the emergence of a faulty super-ego, we find cases where ego-control seems to be lacking as a constitutional factor, where the impulses are geared as it were to seek immediate gratification.

And thus we come to the vexed question of psychopaths. We all hesitate, I am sure, to attach any such label firmly to any but very very few children or adolescents. We have to wait until their behaviour continues to be irremediably anti-social, and their conscience continues to be perverted or rudimentary at an age beyond childhood. Even so, we know that many of them will change at a later age. What it comes to is that we shall use this term as we use the term "maladjusted": as a description for purposes of disposal, as an administrative and not a clinical category. We are always saying that we must arrive at a more exact clinical classification, if psychiatry is to be a "science." It still seems likely that the diversity of human creatures will continue to evade the etymologist, and that we shall continue to practise an art.

Now I come to an important point and that is the technique of the interview. The psychiatrist's contact with the children has generally a double aspect: on the one hand, his contact with the

group; his sharing of meals, and games, and interests, his visits to the dormitory, and all the innumerable ways of making contact and observing children in a natural setting. Indeed, in one or two of the institutions which I visit I have done merely that, and then discussed individual cases with the warden or with the staff. Such was the way they appeared to prefer, and one must to a large extent conform to what they feel is most acceptable and fruitful.

In most institutions, however, there are generally selective cases to be seen, if only for a quarter of an hour or so each. What we get ourselves, and give to the child, in such interviews, depends of course on our individual personality, skill and experience, but a few observations may help. I do not know if anyone interviews children across the width of a table—I presume not. I like to have them sitting next to me, or at right-angles, and near, so that my arm can go round their shoulders if called for; a physical gesture of sympathy can go a long way with some—it is a matter of spontaneous tact and timing.

Aichhorn, who was presumably a master of the art, spoke of the "transference" even in a preliminary interview. We would not feel justified in using the term in this way, but have no other adequate one, except the foreign word *rapport*. I would suggest a re-reading of Aichhorn's book *Wayward Children*, and will here quote a passage from the chapter entitled "The Transference." "I consider this first moment of our coming together of the utmost importance. It is more than a 'feeling out' of the situation; it must have the appearance of certainty and sureness and must be put through as quickly as possible because in most cases it forms the foundation for our later relationship." Again, "After this sizing up of each other is over, a struggle begins for the mastery of the situation. This may be brief or it may be prolonged, and I must confess that I do not always come out victorious. You must not think of this struggle, however, as a mutual show of conscious strength. There are many unconscious factors in it; we feel rather than know what actually takes place." We will not of course necessarily follow Aichhorn in this method: he was an extrovert, and so many of us are introverts! However, it behoves us to be aware of what we are doing, and how we do it.

I have not discussed systematic psychotherapy of individuals, nor mentioned group-therapy. The latter quite possibly has an important future, and is a fruitful subject of discussion. Neither have I mentioned the question of the sex of the psychiatrist: whether it should be a man for boys, a woman for girls—at any rate for adolescents.

What emerges, I think, from one's work in institutions—which is necessarily limited by the mere lack of child psychiatrists, and disposal of one's time—is that, even thus curtailed and sporadic, it can yield good results. A well spent session or a brief weekend leaves a feeling of satisfaction because one has entered a different world, one has had a fresh experience, and one has contributed something to the work of healing which goes on so unceasingly and devotedly in so many institutions.

II

RESULTS OF TREATMENT IN WAKE GREEN HOSTEL FOR MALADJUSTED BOYS *

THE Wake Green Boys' Hostel was opened in 1952 to house twelve boys, of ages between eleven and fifteen plus. It consists of a moderate-sized house of suburban type, with half an acre of ground, in a residential district of Birmingham. A large hut was built on, divided into two: one for games, the other for hobbies. It has a patch of woodland and an adjoining field, beside the garden. It is staffed by a warden and his wife together with two assistants, one female and one male. There has been one change of warden in eight years. One of the wardens had approved school experience as a teacher; the other, experience in a good remand home.

The boys attend mostly one secondary school in the neighbourhood. One or two have attended technical schools. They are allowed home on Sundays, with occasional nights as well in suitable cases. They have three weeks' holiday by the sea. The parents are, of

* Paper read to the Child Psychiatry Section at the Spring Meeting of the R.M.P.A., Birmingham, 1960.

course, encouraged to visit the hostel, and the warden often visits the home. Psychiatric social work with the parents is not systematically carried on, except in certain cases where there is already a strong link with the clinic.

As regards psychiatric supervision, I have been in the habit of visiting fortnightly, having tea with the boys, and discussing cases with the warden. Only occasionally do I see individual boys, or have them attending the clinic. On the whole it seems best not to single boys out for individual attention.

Types of Cases

The main consideration which governs admission to the hostel is, of course, that removal from home becomes imperative, through frank rejection, hopeless mismanagement, or some type of incompatibility. What determines the choice of hostel rather than residential school is partly age—since it is difficult to find schools which will admit boys over eleven or twelve. The type of problem of behaviour also tends to be less complex, and perhaps reactive rather than neurotic. Often it would be difficult to explain the decision, except by invoking the kind of “hunch” that one acquires by experience. Most cases had attended a Birmingham child guidance clinic for varying periods. Some are on probation as well.

The present warden considers the following unsuitable for a hostel: (1) the persistent delinquent who has stolen and got off many times (*i.e.*, those more suited to approved school); (2) the persistent truant or wanderer from home or school; (3) the very destructive or manic in behaviour. It has been found that one or two of this type of case can disrupt the rest of the group.

The warden also draws an interesting distinction between the two main types which he has observed:

“I would suggest that there are two main types of maladjusted boys.

“The extrovert type, who are noisy, energetic, destructive, manic and restless, often careless of self, clothes and property. They are deficient in morals, often rude and robust, frequently gluttonous, and often develop physically rapidly and become adolescent quickly.

They seem to have no nerves and will take great risks. I have noticed this at games, swimming, diving, tree-climbing, dashing through traffic, etc. My observation of at least a score of them has shown that at one time or another they have had accidents necessitating hospital treatment and further investigation has shown that brothers and sisters have also been accident prone. This type of boy is the easier to treat. Once one has their respect, or love, or friendship, progress can be quite rapid. Their defects are obvious and they show them continuously. They can be calmed and trained progressively. If they are of poor intelligence and backward academically, the routine and regularity and safety of life at the hostel has produced excellent results. In a school class suitable to their abilities several of this type after two years here become top of their class. This result has come after a poor start, when for a term or so the boy has been nearly bottom of his class.

“The other main type is introspective and depressive. There is slyness, secrecy, dodging, hatred and resentment against practically everything. They are extremely difficult to get to know. They are suspicious, and will not trust anyone. It is difficult to gain their confidence. They cannot laugh or cry properly. To use an ‘Irishism,’ they only seem happy when they can make someone else miserable. They are often intelligent, but seldom work up to their ability. They are very much against authority and discipline and will put up with punishment and unpleasantness with a feeling of martyrdom. They seem impervious to threats and show little interest in rewards. It often takes a long time before this type of boy begins to show any improvement; this is because they cannot accept or give trust, friendship, or kindness. They look for a long time at such offers to find out what the ‘catch’ is.

“Shared between the two types of boy are the many superficial manifestations of maladjustment, which may be enumerated as follows: Lying, romancing, truanting, stealing, temper-tantrums, school-phobia, gluttony, enuresis, encopresis, quarrelling, dislike of parent (sometimes with great hatred), swearing, lewdness, viciousness, and selfishness. They are easily frustrated and quickly lose self-control. On such occasions they become completely stubborn and almost uncontrollable.”

The previous warden writes as follows:

“The main purpose of a hostel for maladjusted boys is the emotional and social readjustment of any boy admitted. I believe selection is of vital importance. The ‘case’ most suitable or desirable is the one where there is disturbance—unhappiness, violence, etc. etc., *at home* without any corresponding abnormal behaviour *at school*. I say this because by its very nature (*i.e.*, an open community in a normal urban social setting) the hostel should not become the focal point for local antagonism—in other words the boys should exhibit some signs that in certain situations (*e.g.*, school) they accept normal or near normal behaviour standards.”

“At this distance of time their main characteristics appear to be

- (a) without exception they were deprived of *reliable affection*—some had little experience of affection at all; some come from homes where there was an ambivalent attitude on the part of parents;
- (b) they were excitable;
- (c) most of them had or developed a sense of humour—some were comedians by design, some by accident; some were completely unaware that they were comedians;
- (d) they were (with not more than two or three exceptions) the most delightful bunch of crackpots that anyone could hope to meet. I loved them all and I still laugh to myself at the incidents I best remember.”

“When do we judge results?—after one, two or twenty years?—What is the recent Gallup Poll? Is it a result of education twenty or thirty years ago, or home influence, or the results of two world wars—79 per cent. of the population in favour of flogging and hanging!!! No, I don’t think much of results. I believe that a person should enter the field of education or social work and work to the limit of his or her capacity according to the ‘light’ that guided him to the field and to hell with the results. No person can take another person to heaven. No person can live another person’s life. One can love, help, advise, restrain, guide if need be, but one must be sufficiently humble to be neither unduly excited by a so-called good result, nor unduly depressed by a so-called failure.”

Facts and Findings

I have provided a sheet of tables giving a rough analysis of some of the factors in the thirty-three cases with which we are concerned. These have been selected out of a total of sixty-three admissions to date, by including only those admitted between 1952 and 1957; eliminating those with a very short stay, and those where follow-up has not been possible. The follow-up, carried out in September 1959, was for a period from two to five years after discharge. It was done by direct contact, by first-hand information, or by letter.

I say rough analysis, because I have not attempted any kind of statistical evaluation. Apart from the small numbers, statistical evaluation gives a spurious air of scientific verisimilitude to data of this kind, where so much is not capable of factual information. The picture in every case is one of unique and individual complexity, but certain of these rough findings can provide pegs for the discussion of various aspects.

It will be noted that the chief presenting symptoms are those of behaviour, chiefly stealing, with a surprising number of truants. This does not, of course, mean that there were not other symptoms of neurosis; encopresis, insomnia, phobic symptoms, etc.

The family backgrounds speak for themselves.

With regard to types of personality, I have, diffidently, and in inverted commas, labelled half of them as "psychopathic."

We know that it is a matter of opinion as to what constitutes "psychopathic" persons in adults, except that they are sufficiently "sociopathic," and lacking in moral sense, to form an administrative group—in the same way as we create a group of "maladjusted children."

Warren (1960)¹ has pointed out the difficulty of diagnosing conduct disorders in adolescents, or of attaching any label to them. His remarks on the subject are worth quoting.

"Fourteen patients (twelve boys and two girls), aged between twelve and sixteen years, had subsequently, by follow-up aged

¹ Warren, W., *J.Ment.Sc.* 106.815, July 1960.

nineteen to twenty-four years, earned the title of psychopathic personality, bestowed on them in due course by one or more psychiatrists or prison medical officers. It is not proposed to discuss here the merits or demerits of this title in their cases. Such a diagnosis may have been correct, but its use appeared rather haphazard. Is this one reason why the term is so nebulous?

“ Be this as it may, examination of their records underlines that they were, as children and adolescents, a very mixed group. Ten other patients (six boys and four girls) had in fact similar subsequent bad antisocial records, but they have not yet, as far as is known, been diagnosed as psychopaths.

“ Examination of the records of the fourteen so-called psychopaths shows that one boy was admitted with a neurotic condition. His antisocial behaviour supervened after discharge. Six others during admission showed neurotic conditions as well as conduct disorders. The other seven were admitted with conduct disorders only; but some of them showed neurotic traits. During the first decade of the lives of this ‘ psychopathic ’ group, no clear-cut features distinguished them. However, an impression was gained that they were, as were the others with serious antisocial conduct, amongst those patients with the more unstable and disturbed family histories; they had suffered on the whole more than most patients from environmental disturbances in early childhood, but not particularly from maternal deprivation. By the second decade, they had become on the whole amongst the more incorrigible in their conduct and those most difficult for outside agents to handle. In the unit, most had relative difficulty in making positive relationships with the therapist or with other patients, but few could be called ‘ affectionless.’ Some appeared to settle down and to derive temporary benefit. On the whole, they were amongst the most awkward patients, although this was a matter of degree. In the majority, their antisocial behaviour continued and perhaps increased afterwards. There were, however, in contrast, at least four others who, indistinguishable at the time of admission, had settled down and become more stable by the time of follow-up. How many more will stabilise with increasing maturity? ”

Illustrative Cases

At this point one or two cases will illustrate the variety and the vicissitudes of treatment, and the unexpectedness of results—despite unfavourable factors.

John, born 1941

Referred to Child Guidance Clinic in 1952, aged eleven, by a probation officer as being difficult and destructive, also as being a “strange child”—had recently been fire-raising. The probation officer had known the family for four years, the mother having been under her supervision.

FAMILY

Father. Described as work-shy, though capable if he wanted to be.

Mother. Came from a normal home, developed depression in 1948, was an in-patient at a mental hospital and recovered. When seen she was in a desperate state owing to financial straits, openly saying she hated the boy and wanted to leave home.

There were two younger sisters.

HISTORY

Normal birth and land-marks. Was unwanted. At about six was in hospital for some months with ?paralysis following measles, then went to residential open air school. Then attended ordinary school, behaved very well and was well liked. Average intelligence and achievement. The headmaster reported as follows: “I am of the opinion . . . that there is absolutely no reason for John to become a case for handling by the guidance clinic . . . and that it would be harmful for this boy to be even interviewed.” (This headmaster never considered any case suitable for child guidance.) It was obviously a good case for the hostel, was admitted on September 19, 1952, and stayed there over two years.

He settled well and began to show powers of leadership. Meanwhile a great deal of work was done with the mother by probation officer, P.S.W., and the psychiatrist at the psychiatric clinic. The

home was gradually built up, and since he went home John has held down a job successfully, being a frequent visitor to the hostel.

This is a case where the hostel was able to provide just the right environment, and a breathing-space during which the mother was helped to rehabilitate herself.

Donald, born 1940

Referred to Child Guidance Clinic in 1952 by head teacher as being uncontrollable; violent tempers, smoking, lying. At school: "unsociable, defiant, nervous, no control of his emotions."

HISTORY

Mother died when he was one year old; he was then in hospital with rickets. He subsequently went to three different children's homes, till he was four. He then went home with two sisters. At seven he was said to have pushed a boy into a canal. He then went back to a children's home where he was found to be difficult, but seemed happy.

There was one older brother and two sisters older. One married sister remained with father, then married and has since helped Donald. The father is easy-going and ineffectual—"half-soaked" as they say in Birmingham.

Donald again came home at the age of nine, was neglected by father and bullied by his brother three years older. His one consolation then, and later, was to help at a neighbouring farm.

At the clinic it was thought from the first that he would need to be away from home sometime. An E.E.G. was normal. He attended weekly to see me from July 1952 until March 1953. He was always friendly, vague, cheerful. Had an I.Q. 100, and was average in a B class. He played in the sand-tray, expressing a great deal of aggression and destruction. Said he wanted to be adopted by a lady with lots of children.

He was admitted to a school for maladjusted boys in April 1953 and soon settled down. He left in July 1954 and was sent home. He should have gone to the hostel at this stage. After three months at home, however, he was charged with breaking in, and was sent to the hostel. He stayed there happily till he was just over fifteen,

with occasional outbursts of temper. He spent about eight months there. He then procured a job as a pastry cook, and kept visiting the hostel. He kept going till January 1956, when he was charged in court, and I saw him in the Senior Remand Home. He was put on probation. The next episode was when he ran away to London; then later I was asked to see him in hospital, after he had taken some aspirins and sleeping tablets, because of toothache, he said. I suggested a probation hostel. I lost track after this and the next step was a short-term approved school. There again he settled down, and became interested in church organs. In fact on leaving the school he got a job with organ manufacturers, and started to train as a tuner. Unfortunately the money was not enough and he recently got a job in Cadbury's. But he buys broken-down harmoniums and patches them up with skill. He lives amicably with father and brother, and has apparently created a state of harmony for himself through his passion for broken-down harmoniums!

Results

The following table shows the results, as far as possible up to date, of cases admitted between 1952 and 1957.

Satisfactory	11	33%
Partial improvement	9	27%
Unsatisfactory	6	18%
In approved school, etc.	7	22%

N.B. Two of the "satisfactory" cases have been through approved school training.

Three old cases have made an attempt at suicide.

It need hardly be said that results as estimated are bound to be temporary, relative and tentative. Many of the cases are still at a critical age where they may eventually make good and settle down, or fall the other way. What is gratifying is the number of old boys, even from among the less satisfactory, who keep in touch and visit the hostel, finding there the support and encouragement which they still need. The wardens have been zealous in procuring suitable jobs where possible, though many of these boys tend to drift from one job to another.

It is also worth mentioning that I have visited three of the boys still at approved schools who were considered neurotic and difficult cases, and all three are adjusting remarkably well.

The results can be compared to those given by Whiles (1955)² in a paper describing the work of a hostel and consequent follow-up of fifty cases, which are in many respects comparable. His results were given as follows:

Satisfactory	20	40%
Partial improvement maintained	16	32%
Unsatisfactory	14	28%

His results differ slightly, owing probably to the somewhat younger age-range of admissions. Whiles also tried to find some correlation to explain the failures, and concluded that the important factor was lack of co-operation of the home with the efforts of the P.S.W.

I think it would be very difficult to relate success or failure to the multiple and complex factors in each case. In the case of some of the boys who have ended up in approved school, the fault appeared to lie more in the boy's personality than in the home. On the other hand, in the case of boys who have made good, the home background is often no more favourable than with others, but they are seen to possess a certain strength of character which prevails over circumstances given some help at a crucial period.

No one would claim that results are brilliant, but we are becoming more aware of the limitations of our craft, and realising that our chief job is still to give help when help is needed, and do the best we can in the circumstances.

Perhaps it is salutary to echo a certain pessimism, such as is expressed, for example, by Mayer-Gross and his co-authors in the section on child psychiatry in their textbook.³ They cast much doubt on the views sometimes expressed on "the hope of preventing, by psychiatric supervision or treatment in early life, a large part of adult maladjustment or illness." Certain follow-up studies of old child guidance cases in the States appear to give a fairly gloomy

² Whiles, W. H., *J.Ment.Sc.* 101.423, April 1955.

³ Mayer-Gross, W., Slater, E., Roth, M., *Clinical Psychiatry*, 1954, p. 509.

picture of eventual results. The paper by Warren also sounds a note of caution for many types of cases.

Discussion

- (1) The main object of hostel treatment is to build up or restore relationships between boys, their families, and the community, which have either never been satisfactory or have been gravely impaired. In these cases it had been found, after a trial of varying length, that such a task was next to impossible while the boy remained at home.
- (2) The question that arises is whether the hostel idea in itself is a good one, and whether it justifies itself by results. There are advantages, and disadvantages, in having boys going out to school, living in their home-town, and having frequent contact with parents.

Given adequate selection and good personnel, it would appear that such a unit is worth while.

- (3) Another question is by what means more effective results might be secured. The main therapeutic agent is of course the whole group in the hostel itself and its way of life. How far are accessory methods necessary or advisable, such as continued work with parents by P.S.W.s, systematic therapy—group or individual?
- (4) Follow-up, and after care, are essential. In some cases, indeed in many, the provision of working boys' hostels would be highly advantageous. While many of the boys are not fit to go home at fifteen, or the home is unfit for them, it would not be advisable to have working boys mixed with school boys.
- (5) I would say that perhaps the most important lesson in dealing with this type of case—where there is rejection, disturbed home background, separation, etc.—is that, with adequate residential treatment, including in some cases approved school, there is a good chance that a maturation factor will begin to operate, apparently about eighteen or twenty, with consequent improvement and increasing stability. Therefore our treatment—however empirical and *ad hoc*—of those whom we may roughly style “potential psychopaths” is justified in the expectation of this turning point in their lives.

Wake Green Hostel for Maladjusted Boys 11-15

FACTORS IN THIRTY-THREE CASES

1. <i>Chief presenting complaints</i>	
Stealing	18
Truanting	11
Beyond control	9
Tics	4
Encopresis	2
2. <i>Treatment prior to admission</i>	
Child guidance from 3 months to 3 years	27
In school for maladjusted children	8
In Child Psychiatric Hospital	4
3. <i>Factors in family</i>	
Mental illness	5
Instability; psychopathy	7
Mother absent	5
Father absent	2
Step-parent	5
"Emotional disturbance"	26
4. <i>Factors in early history</i>	
Early separation	5
Early physical invalidism	6
Spoiling and inconsistency	6
Illegitimate or fostered	3
5. <i>Type of personality</i>	
I.Q. 90-120	23
I.Q. 75-90	10
"Normal" types	7
"Psychopathic" (immature, unstable, asocial)	17
Depressive	2
Schizoid	1
Hysteric	3
Very dull	3

THE CLOSED CIRCUIT

THE STUDY OF A DELINQUENT FAMILY *

G. W. ELLES (*Sutton*) †

THE aim of this paper is to show the way unconscious phantasies of various family members interlocked. This enabled the individuals to make use of each other and to exploit each other's compulsive acting out in an attempt to gain relief from their own frightening phantasies. It had the effect of making the family unable to accept therapy, because this was experienced as an overwhelming threat to their own closed circuit.

In earlier research ¹ at the Henderson Hospital, a group of psychopaths and their families were followed through their treatment phase and rehabilitation up to five years after discharge. The research established that most of these families had complementary character disorders in the marriage pair. Members of such families broke down easily, and were severely restricted in the relationships they could make. Yet the family organisation could be seen as having a therapeutic function retarding and limiting the nature of the personal breakdown and offering a basis for rehabilitation. From our observations it was possible to work out various patterns of emotional balance in the families. The most important to the present subject was the balance between personal identity and family identity. This family-based identity, in its pathological form, represents the transfer

* This study is taken from a pilot research into the after-care needs of patients discharged from the Social Rehabilitation Unit, now Henderson Hospital, Belmont, Surrey. It has been carried out with help from the S.W. Metropolitan Regional Board under Dr. Maxwell Jones and his Deputy, Dr. Fergus Stallard. To them, and to the clinical team, I would like to express my thanks for their interest and support.

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¹ This study was part of a much larger research project for Belmont Hospital Social Rehabilitation Unit, Director Dr. Maxwell Jones. The research team was directed by Dr. R. N. Rapoport under the auspices of the Nuffield Foundation. Paper read at Psychotherapy and Social Psychiatry Section of Post Hospital Care of the Family, 1957.

into a central family body of many unacceptable thoughts, feelings and activities of individual adult members. At the same time, persons so shorn of their identity are more likely to be used as an organ or limb of such a family body. Yet survival depends on being surrounded by this family. For, unable to be aware of themselves to any degree, the *family* is then needed as a means of indirect communication, both with themselves and with the world outside. Thus in the small group of families studied, four stages of family imbalance were worked out. At the bottom of the scale stood the family so threatened by disintegration that family needs took precedence over nearly all personal needs, even the need for individual psychotherapy. The family became a closed circuit, unable to allow any effective help to reach the family members. In this paper such a family is described, the whole family being seen as the "patient," and each individual but a limb of the family.

The Lukes have been married some six years, but the Henderson Hospital has available information going back to 1949, when Mr. Luke was first admitted for treatment. Furthermore, intensive home visiting on two occasions has given cross-sections of the family activities which could be compared to show apparent degenerative personal illness. Both the Lukes have been admitted twice to the Unit—indeed it was at the Unit that they met. Both have been in several other mental hospitals for short periods as a result of suicidal gestures. Here then is a ten-year period covered by the recollections of the Lukes, by clinical notes on them as individual patients, and by observations made within their home at two periods of considerable stress related to Mrs. Luke's pregnancies. Over the years this family has become less and less able to tolerate relationships of a therapeutic nature. At the same time, clinics, mental hospitals, special psychotherapeutic centres have all been unable to devise a treatment approach which can be accepted by the Lukes for long enough to produce a change towards better functioning. Seen as a progressive failure between the Lukes and the Health Services, ten years ago Mr. Luke tolerated an eight-month's stay in hospital. Eight years ago they both stayed about three and a half months, and six months ago the wife stayed three days. One month ago, having sought admission, neither of them could bring themselves to accept

treatment, and so simply failed to arrive. Therefore, though the Lukes have been admitted, many times, to many hospitals for observation, there is a pattern of increasing intolerance of *treatment* leading to more precipitate discharge.

Certain points seem important in a family like the Lukes. First, that such a division of family experience into past, present and future really has little meaning. These families feel "futureless" because past memories and phantasies are experienced as action in the present. Family energy is mainly spent on seeing each day through and surviving. Secondly, because of this basic insecurity, such families find it more important to maintain the status quo—however unsatisfactory—than to allow change to take place. Change means insecurity greater than they can bear. Therefore, there is little learning by experience. Finally, the overwhelming fear of these families is that they will be invaded by other people's feelings and ideas, and that they will be defenceless.

In order to discuss the unconscious activity of this family, material has been collected from various sources. The psychiatrist's report gives the family's immediate problem. The report of the research worker adds a picture of the relationships of such a family in its present setting. Information from two other sources is channelled in. There is a distillation from the hospital files on both the Lukes, dovetailed together into a family history of illness. Finally, there is the record of the research worker over six months, during which the family worked with her to show how the family functioned under stress situations.

In collecting all this information together, it is accepted that the various levels of abstraction are not comparable, but that each source of information has something to add to a total picture of a family functioning in difficulty. From it there emerges a picture of the Lukes dealing with three major themes: an oral theme (difficulties of eating, starving, addiction and drunkenness); a theme of violence (fighting, sexual attack); and a theme of death (not being able to stay alive—a passive state—or killing). The themes remain constant, though through the ten years there is both a change in symptomatology and a change of actors. But the drama repeats itself over and over again.

The Lukes' Problem

(As presented by them to the psychiatrist)

Mrs. Luke had been admitted to the Henderson Hospital for the second time in order that a growing addiction to tranquillisers should be treated. At the initial interview with the psychiatrist, the whole family was present, that is, Mrs. Luke, her husband, and her three-year-old daughter, Mary. Mr. Luke was attentive and gentle with his wife and the child was exceptionally well behaved. Mrs. Luke was thin, anxious and appealing. Mr. Luke, a quiet-spoken, serious man, looked more robust, and at the time seemed the more mature of the two. The story they told was a tragic one. After their marriage they had an extremely difficult time. In the intervening seven years, Mr. Luke had had only twelve months' employment. Their son, born two years after the marriage, proved a difficult child to feed, apparently passing into a coma-like condition after taking very little milk. He had suffered from colic, and this had kept everyone awake. In desperation one night, they had placed his cot outside their bedroom so as to get some rest, and the next morning they found that he was dead. The post-mortem showed that he had suffered from bronchial pneumonia. At this time Mrs. Luke was again pregnant; she developed eczema first, and after Mary's birth was thought to have developed a gastric ulcer. A similar pattern of feeding difficulties showed up, and the child would not take her feeds, passing into a trance-like state. Mrs. Luke took an overdose of sleeping tablets on two occasions, leading to her admission for short periods into a mental hospital. On the first occasion, it was arranged that Mary should be looked after by foster-parents. During the nine months that she was away from home, there appeared to be no feeding problem. On the other hand, Mrs. Luke became more and more distressed at not having the child, and fought to get her back. Mrs. Luke got Mary back, then aged about eighteen months. By this time Mrs. Luke was three months pregnant. Both the Lukes were thoroughly alarmed about the possible effect a second baby would have on Mrs. Luke, particularly as Mary had redeveloped all her eating difficulties, and now vomited her food easily. Therefore, it was particularly tragic for the couple when the

third pregnancy resulted in a still-birth. It confirmed their sense of guilt about not wanting the child, and their feelings of inadequacy. Both felt people were talking about them, or shunning them, and Mr. Luke gave up his job to be with his wife.

This account of themselves was told to the psychiatrist on a Tuesday at the time of Mrs. Luke's admission. Three days later she came in great distress to the sister in charge of the Unit, saying that she must return home immediately as her child was ill, her husband must go out to find work, and the two of them needed her at home.

Research Worker's Report

The family and its environment

The Lukes live in a road of respectable, solidly built four-storeyed houses, most of which have been divided into flats and maisonettes. In the daytime the road appeared empty, but in the evening groups of neighbours could be seen gardening or tinkering with old cars and motor-bikes. At one end of the road is a main thoroughfare and big shops, whilst at the other end there is a small road leading to one-roomed shops.

The Lukes appear very isolated, even though they themselves have lived in the house for seven years, and Mr. Luke's mother had the ground-floor flat until her death. Such relationships as the Lukes have appear to be "tainted," and are felt as likely to lead to trouble. For instance, on the first floor is Mr. Luke's sister and brother-in-law. She is seen by the Lukes as a lewd, jealous woman, very antagonistic to them both, and aggressive towards Mrs. Luke. She is also felt to be dangerously seductive to Mary, who has to be watched to see that she doesn't get up to her aunt's flat. In the basement, which belongs to the Lukes, there is a young coloured couple. They are described by the Lukes as nice people and in themselves friendly. Because they are illegally occupying the flat their presence, though lucrative to the Lukes, is also a threat. Mr. Luke seems to have cut himself off from most of his relatives since his mother's death. Mrs. Luke's kin live in the North of England, and for many years she has been estranged from them until recently. With both there is a story of their parents' marriage breaking up and each parent marrying

unhappily again. Neither of the Lukes seem to have any local friends. Indeed, they flinch from speaking to the neighbours. They hear the local gossip through Mr. Luke's sister.

At the level of formal relationships, the same pattern of tainted contacts is to be found. Mr. Luke has a long record of unemployment (seventeen jobs between 1946-49, prison sentence of eight months, and then just over a year's employment in the last ten years). High personal aspirations have all along been linked with inadequate performance. One job appealed to him; he would like to return to it, but it is no longer open to him because he took advantage of the kindness of his employer. With the landlord a similar pattern is developing. This old lady, who has been sympathetically inclined to Mr. Luke because she knew his mother over many years, let the young couple take on Mrs. Luke senior's flat when she died, thus with their basement flat giving them a maisonette. When the landlord visits there is great apprehension in case the tenants' secret is discovered. With the National Assistance Board they again fear discovery, this time the discovery of a false declaration about their income. To mitigate their guilty feelings Mr. Luke has stopped claiming other benefits, either for himself or for the child.

From every side the Lukes fear retribution. Put another way, the Lukes could be described as working with a system of values that has become split and highly conflicting. One half of it, immensely moralistic, rigid and retaliative, leads them to feel that they are forever doing wrong. This brings the expectation that in all their relationships they will never be allowed to keep the good things that they want for themselves. They expect to be forced to give up or offer back the things that have given pleasure. Therefore, in a family defence, they secretly operate by a different value system, one which allows them to steal, defraud and dispose. This system is the exact opposite of all the "oughts and musts" with which their conversation is peppered. The first set of values force them to judge these secret norms as "cheating," but at the same time this first set are felt as an external, coercing set of values, unintegrated into their family life, yet dictating it. It is in the presence of these conflicting sets of norms that gratifying emotional contacts outside the family

become destroyed. The resultant isolation makes the Lukes desperately dependent upon each other. Each has come to label themselves as criminal, and also feels an accessory to the other's "bad" deeds. Each has involved the other in more unacceptable behaviour as a way of lessening their own sense of wrong-doing. (The "bad" and "wrong" are judged by their first set of values, but at the same time they represent generally accepted social norms too.) Therefore, it becomes even more necessary for them to stay together as a family. Yet because they must be with each other all the while, neither can fulfil adequately the role tasks in the marriage relationship, so that each also despises the other. A vicious circle is established.

The role relationship failure, and its effect on treatment

Mrs. Luke cannot let her husband go out to work, she is too frightened of her responsibility as a mother. On the other hand, she is ashamed of the poverty of her home, feels she can invite no one in, and therefore is very bitter towards Mr. Luke on this account. Mr. Luke cannot allow his wife to accept treatment because he then has to take full responsibility for the child, or else go out to work whilst she is at a nursery. If he goes out to work he feels exposed by his inadequate work skills, and fears that people are laughing and talking about him. In this tangle of failed relationships, there is a further twist. Because each feels a failure in his or her own right, both identify themselves with each other's failure and assume a protective role. Therefore, though Mr. Luke feels that Mrs. Luke needs treatment, he can also feel, on her behalf, the pain she might have to face in discussing her problems in a therapeutic group. Therefore, he finds it extremely difficult to adopt an attitude which might enable her to remain in treatment. Again, though Mrs. Luke feels her husband's work record is despicable, she is so aware of his problems at work that it is easier *for her* to have him unemployed.

It can be seen at this point that Mrs. Luke's reason for leaving treatment is grossly over-determined. At the centre of this family maze is Mary, aged three. Whoever undertakes to feed her then becomes so wrought up that they can scarcely feed themselves. She has to find a way of dealing with her parents' anxiety about her

health, her diet, and even her sleep (for they nudge her to see if she is still alive). The child seems loving and obedient, neat and tidy in between not eating or being sick. The parents feel that she is pre-occupied with ideas about biting, as she will only take liquid or mashed foods. At least a quarter of the day is spent over her meals. Through her behaviour, Mary exerts an enormous control over her parents, who feel they are being driven to the point of breaking. Most of their day is spent in protecting and cherishing her, but at the same time there is much talk between them about the other two babies, particularly the eldest son, who is idealised. Mary, in her questioning, would seem to feel that this boy was more special and more good than she. Therefore, she has to contend with a rivalry of two dead siblings who are so much in her parents' minds. At the same time she has to deal with her parents' anxiety that she too may suddenly die.

The total family problem can be seen in terms of a recurring unsatisfying parent-child relationship. There is a disbelief in a benign and competent authority who can feel like a good parent. Authority seems to mean forceful control or mad power. Things labelled "good" do not feel good, and therefore pleasant experience has to be secretly found, burdensome responsibilities secretly disposed of. As a result, Mr. and Mrs. Luke, though seeing themselves as essentially upright and law-abiding, find themselves as a family pursued by the furies of their conscience externalised in formal authority figures—officials, employers, doctors in hospitals, landlords, and the police. There are propitiatory acts of self-denial, and these give way, at times, to more cruel acts of self-punishment in suicidal episodes, which, in their turn, inflict more suffering on the other family members. As time goes by, some more formal agencies stand to be involved in the behaviour of this family and, parallel to this, the informal spontaneous and socially gratifying relationships become tainted, disordered and are now practically non-existent.

Basically the Lukes seem to have the capacity to interact with one another in a loving and on-going manner, but inasmuch as the original marriage was a flight from facing what they feared was a "mad" part of themselves, so a large proportion of family energy must be deployed in keeping the marriage alive for purely defensive

reasons. The intense care for Mary can stand for a family "acting out" of an inner individual fear that the child within each one of them may become overwhelmed by mad, cruel and driving parental standards.

The Family Functioning

If this report assessed the matter accurately, then a prediction could be made that the Lukes' system of family functioning precluded the possibility of formal psychotherapy. Indeed this was demonstrated in the pattern of family behaviour over the next half-year. The prediction was based on the Lukes' apparent assumption that there was no good powerful enough to help them, and, therefore, they had to do everything for themselves. The unconscious converse of this seemed to the research worker equally important, *i.e.*, that the Lukes had to feel that they could act omnipotently as a way of avoiding their own intense feelings of chaos and failure. To feel that other people could help only highlighted their inadequacy and their guilt.

Shortly after the two visits on which the foregoing report was made, the Luke family engaged in a further drama. Mrs. Luke began to fear that she was again pregnant. In front of the research worker, and in earshot of Mary, the Lukes discussed how they could deal with this. Again both assumed that it would be a disaster for Mrs. Luke to have another baby. Over the weeks, various drugs were procured by Mr. Luke and swallowed by Mrs. Luke to terminate the pregnancy. At the same time, Mary became interested in the baby next door, wanted to know if she could have a baby to play with. During these two months no conclusive evidence came to light that a pregnancy had been established, yet a great deal of family energy was devoted to dealing with the fears relating to it. On two occasions Mrs. Luke made herself rather ill, and on both these occasions had to miss appointments with psychiatrists.

One way of looking at this episode would be to see it as a sort of "family dream." The family is acting out the theme of infanticide and, at the same time, exposing this to the research worker. Mr. and Mrs. Luke become the active people, treating themselves, whilst two psychiatrists and two treatment units are rendered impotent.

The Lukes, recognising that Mrs. Luke left one unit rather than discuss the problem of the death of two babies, now manipulate a situation where they again show their need to have treatment, but only from themselves. They demonstrate their need to be, at one time, patient, doctor and culprit, thereby closing the circuit.

This negative way of using medical services could be shown to the Lukes. It led, in this instance, to some small recognition of how each used the other's problems as ways of dealing with their own. Mr. Luke recognised that, so long as he felt he could not possibly leave his wife, he did not have to face persecutory feelings at work. Mrs. Luke recognised how she could use this situation as a way of avoiding being confronted with her very troubled feelings. For now she saw that some of her problems of feeding Mary represented a mirror image of a similar situation between her and her own mother. Here, for a fleeting instance, there was some slight increase in personal awareness. Both saw in themselves some small fragment of what ordinarily was felt to be a family experience. As a result, it seemed that for twenty-four hours they acted in an "un-family" way. After this, a complex family manoeuvre took place so that the family equilibrium could remain steady. The threatening situation seemed to be one in which *simultaneously* there was an alteration in the balance of defensive projection in both the Lukes. Now Mrs. Luke kept in touch with the research worker, and Mr. Luke did not. Such a balance might have continued longer, but for the fact that Mrs. Luke's father arrived to stay with them.

It so happened that Mrs. Luke's father met the research worker on the day he arrived. Shortly after, Mrs. Luke contacted the Henderson Hospital asking for a home visit to discuss treatment. When seen by herself in the kitchen, Mrs. Luke poured out her despair about her behaviour, and her husband's reaction to it. She felt herself to be a bad mother and a bad wife. She felt her husband often accused her of taking tranquillisers when she hadn't. He did not trust her with any money. Indeed, he continually searched her and her belongings, in case she was hoarding. She painted a picture of herself wanting treatment, but of her *father and husband* making it impossible for her to go to hospital. She felt that their attitude was that she could pull herself together, and that no hospital could

help. Yet later, when the father was seen, he tried to get the active co-operation of the research worker to make his daughter go into hospital, saying he was sure she needed help. When the three of them met in the presence of the research worker, the father maintained this attitude, that his daughter needed, and could get, help. Mr. Luke took a neutral position, and Mrs. Luke now took the *opposite* attitude to her previous one in the kitchen two days before. The father had considerable drive and seemed deeply concerned about his daughter and son-in-law. Gradually they both agreed to ask for another interview at a hospital, which had been prepared to see the whole family. The out-patient interview took place, the date of admission was arranged, but this was never kept. It coincided with the father's return to his home. As an indication that this was going to happen, the research worker found, on her last visit, two pointers. First, that Mrs. Luke and her husband now felt that the whole problem "had to do with sex." All they felt was needed was that they should go into this themselves. In other words, the Lukes were going to be both patient and doctor once more. Secondly, Mr. Luke's sister was present for part of the time. Once she had left, the discussion turned on how the Lukes were trying to persuade *her* to get treatment, as they felt sure she needed it. At subsequent visits this tended to be the family attitude.

The Question of Theme Variations

It was suggested earlier that families like the Lukes feel futureless. A sense of future depends, in part, on being able to separate past experiences from present, to become free of enacting, compulsively, massive blocks of such experience. With this family the frightening past had to be projected continually into the relationships around them. Paradoxically, this then tied them even further to those childhood experiences. Furthermore, it led them to become more and more dependent upon each other as a target for these projections, and as a tool in their enactment. By looking at the early history of the Lukes, the central projective themes can be identified, and their modification traced in the family experience.

Mr. Luke had always seen himself as shy, acutely self-conscious and impulsive. His parents were unhappily married, and separated

when he was about ten. His mother went to live with another man and Mr. Luke could remember having "murderous" feelings towards him. His mother drank, and he frequently came home to very sordid scenes. He also feared his mother's suicidal tendencies, and on one occasion found her with her head in the gas oven. At one time, he feared that he had wanted to kill her, and it was a great relief when she recovered. His school and early work record were poor, although he enjoyed reading and politics. In company he was afraid that people were laughing and talking about him. His most successful period was whilst serving in the R.A.M.C. in a field-ambulance unit. After discharge from the army he had eight months' in-patient treatment as a result of a depressive episode in which he had suicidal ideas. He showed a marked improvement, but on leaving hospital he could not find suitable work. He joined with two brothers-in-law in breaking and entering barges and garages. Eventually he got an eight-months' prison sentence. Again he was admitted to the hospital for treatment, and on this occasion met his future wife and left precipitately after three-and-a-half months' treatment. The reason he gave was that he must get work and find a home so that he could marry. Shortly after this he was admitted to another hospital, having made a suicidal gesture. At this point his mother seems to have found the young couple a flat under hers. The future young Mrs. Luke then left her treatment, and the two of them got married and settled into the flat.

Mrs. Luke, when discussing her early experiences, had none of the hesitancy and understatement of her husband. She talked about it as if it was happening at the moment. Again there was the history of unhappily married parents, who separated and remarried—unhappily—when she was ten. The important things to her were having tonsils and appendix removed by the time she was four. She remembered her father telling her that at the time there was a further worry, a local lad had interfered with her. Later on, there was another occasion when she had been "taken up to the woods" by an older man. When she was five her father lost his job, became morose, and took to drink and going with other women. Her mother went out to work, she went to school and had to find her own mid-day dinner at home. The marriage of her parents finally

broke up when her father developed venereal disease. Her mother got a divorce, and then married another man, who was both a drunkard and had V.D. The mother was infected, and Mrs. Luke was subjected to tests. When Mrs. Luke was fourteen, her mother died suddenly. Mrs. Luke was never clear about the cause, whether it was due to her mother's heart, or to pills she had been taking at the time. Therefore, there was a fear that the mother committed suicide. Furthermore, Mrs. Luke became worried about her step-father's sexual feelings towards her. At this time she had dissociative and hallucinatory experiences, and she also started drinking. After undergoing a short period of treatment, she left her home town and gradually worked her way to London, never holding any job for very long. She liked the work, but became frightened about the boss's feelings towards her. Eventually, she was admitted to the Henderson Hospital after having lost consciousness for eight hours whilst working as a chambermaid in an hotel.

The Themes

The theme of child care has in some measure already been traced in the family history. One child dies at three-and-a-half months, one at birth, and one is just an idea. Mary, in her relationship with her mother, typifies an ill-remembered bad relationship between Mrs. Luke and her own mother—ill-remembered because Mrs. Luke has idealised her mother, who was the one safely loving person in her life. More easily, Mrs. Luke can recall her mother discussing her own childhood. The older woman was brought up by a crazy foster-mother because her own mother had to be put into an asylum. The foster-mother over-fed the children at the beginning of the week and ran out of money at the end. To a certain extent, this also fitted into Mr. Luke's experience of his mother, who at one moment could be warm, protective and giving, and then at another withdrawn into depression or drunkenness. Therefore, in mothering there is a significant theme for the Luke family, that mothers can be over-indulgent and at the same time driven mad by their children.

Again, in their experiences connected with drinking, and taking drugs, each of the Lukes has some overwhelming memory that

enables him or her to be used by the other as a way of disposing of these haunting experiences. For instance, Mr. Luke's need to save his wife from her excessive use of tranquillisers has this side to it, that to save her is also connected with saving his mother from his own intense anger, the gas oven or the lover, whilst Mrs. Luke enacts both drunken parent and frightened child. The death of the babies (boys) can stand for Mr. Luke's need to find some way of acting out his feared impulses towards his mother's lover, and the fear of retaliation associated with the mother's many pregnancies. On Mrs. Luke's side, her anxiety about having a sexual relationship, and becoming pregnant, is linked to desires for an incestuous relationship, and her reaction to it. So long as she can feel like the small child being interfered with, then she can avoid the responsibility. When the Lukes were single, both at times were suspected of stealing. Mr. Luke's record showed several incidents of breaking and entering. Now the pattern is somewhat altered. Mr. Luke, from time to time, takes all his wife's money, breaking open cupboards, searching her and her belongings. Mrs. Luke counters this by taking from the housekeeping, whilst both of them feel they have defrauded formal agencies. Their sexual relationship has also the features of breaking into a forbidden place.

Furthermore, in all their relationships there is the theme of death, sometimes active death, sometimes just not staying alive. For instance, before marriage, Mr. Luke is twice admitted to a mental hospital following a suicidal gesture; Mrs. Luke's period of unconsciousness is similarly treated by admission. Once Mr. Luke is married, he abandons this form of communication, but his wife makes two suicidal gestures which get her into an observation ward. In all these episodes a gradual condensation of acting out has taken place, as with the other themes. It is suggested that such an act on Mrs. Luke's part represents, not only her own reaction to an intolerable situation, but her unconscious reaction to her husband's need for her to respond in such a way to his expectation. This expectation is one to which Mrs. Luke responds, not only because she has many reasons for feeling suicidal, but also because, in such severely disturbed relationships, one person can make use of an unconscious counter transference in a way that leads to the enactment of their

own secret impulse, here Mr. Luke's suicidal feelings being enacted by Mrs. Luke.

Discussion

This paper has set out to describe some small section of the experience of a young married couple in a phase where the family had to remain in a closed circuit. Two pressures forced them to bring this about. The first one represented an unspoken fear of madness. As a family, they combined to defend themselves against this by boosting each other's apparent ego strength, by their own weakness, a defence against psychosis. The steps they then took led them to criminal behaviour, criminal by their own harsh super-ego system, but also, at times, criminal by the social norms surrounding them. This, in turn, became the second pressure necessitating even more drastically closing the circuit. Treatment was felt as a seductive process, which could only lead to *family* disaster, and a return to seeing themselves as isolated individuals, the one with paranoid fears, the other with gross hysterical symptoms. Therefore, as the closing of the circuit became more effective, so the compulsive enactment of certain themes (associated in the first place with childhood traumata) became more determined. The family lived in a perpetual psychodrama, with themselves both as actors and audience. By operating a very complex system of fragmented identification, they could avoid the agony of responsibility. Because they could not accept, at a personal level, the guilt associated with it, they gained no relief of a permanent nature. On the other hand, through the six years of marriage, their use of each other became more "sophisticated," so that gradually a condensation took place. Now in the compulsive acting out, many of the themes originally experienced by both can be assumed by one actor and reacted to by the other. Each of these themes, fortunately, reaches its point of social danger at different times. There has been a movement from action which society might prosecute to one which it could condone, although the basic motivation remains unaltered. As Eissler has pointed out, society is only interested in behaviour—not in motivation. Therefore, though this marriage has brought many grave problems, it also can be seen to have helped in a lop-sided manner these two sick people from becoming chronic state pensioners, either as recidivists or in-patients.

Nevertheless, they remain crippled by the limited relationships they are able to make, and this is now being passed on to the next generation.

The fact that families like the Lukes have had appalling childhood experiences that link closely to unconscious phantasy material makes repression an inadequate adult defence against anxieties and leads to the massive use of acting out. With this is associated fears about being invaded by ideas and feelings of others. The currents of projective identification, the waves of sustained acting out drag and toss the family like a small boat on a turbulent ocean, an ocean of the dynamic unconscious of the individuals composing the family. To help these families remains a very big problem. Seen as individuals, they are very sick. As a family, however, they can be seen as developing their own treatment. So long as the movement of this treatment is in the direction of socially accepted behaviour, that is from areas of prosecution to areas of condonement, then it achieves something. However, medical and educational authorities must remain deeply concerned about the health of the children of such marriages, for from birth they are pressed into the service of the family, rather than being felt as individuals in their own right. However, whilst the family circuit remains closed, little direct treatment can reach them.

Finally, it is suggested that with severely disturbed people, usually labelled "character disorders" seen generation after generation, there may be two phases of the illness. The deviant behaviour, drawing down punitive feelings of society, is well known. The second phase, as represented by what is here described as the closed circuit, quiescent from society's point of view, has both destructive and therapeutic factors in it. The balance between these negative and positive elements has to be studied before effective help can be offered to the family.

Summary

- (i) This paper describes a family which, in the six years of its existence, gradually became a closed circuit, unable to make use of any psychiatric treatment unless self-administered.
- (ii) The family is described in terms of the relationships that the members could make.

THE CLOSED CIRCUIT

- (iii) Following a diagnosis in terms of family functioning, the family experience of the next half year is described to support this diagnosis.
- (iv) Three aspects of the family are discussed :
 - (a) the futureless aspect of the family;
 - (b) the need of the family to resist change in family members;
 - (c) the family fear of being overwhelmed by the feelings and ideas of others.
- (v) Three main themes of compulsive behaviour are linked to early childhood experiences, and the modification of these themes, in the family experience, is briefly traced. The changes in the themes are seen in terms of intensity, in social condonement, and also in changes in the actors.
- (vi) The present family experience is seen as a perpetual psychodrama which brings no sense of catharsis. Yet, inasmuch as the compulsive behaviour is moving in the direction of socially condoned behaviour, it is seen as having a limited therapeutic value.
- (vii) Concern for the children within a closed circuit family is mentioned.

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THE PROBLEM OF INFANTICIDE

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AN attempt will be made to analyse some of the data obtained by investigating cases of infanticide in Israel during the years 1950-57. We had access to the relevant police files and probation office records of those referred to probation officers for pre-sentence investigation.

Legal and statistical aspects

The provisions of the Criminal Code Ordinance, 1936, regarding infanticide are set out in section 226:

Section 226 (1) Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, she shall, notwithstanding that the circumstances were such that but for this section the offence would have amounted to murder, be guilty of infanticide and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of such child.

(2) Nothing in this section shall affect the power of the court upon information for the murder of a child, being a child under twelve months, to find

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the accused guilty of manslaughter, or guilty but insane, or guilty of concealment of birth.

- (3) The provisions of this code relating to the concealment of birth apply in the case of the acquittal of a woman upon information for infanticide as they apply upon the acquittal of a woman for murder.

It seems relevant to cite section 227, concerning concealment of birth of a child, as in accordance with section 226 (2) some cases of infanticide are brought before the courts on the lesser charge of concealment of birth.

Section 227 Any person, when a woman is delivered of a child, who endeavours, by any secret disposition of the dead body of the child, to conceal the birth, whether the child died before, at, or after its birth, is guilty of a misdemeanour.

As in most European countries infanticide in Israel is rare and does not constitute a serious major problem.

TABLE I

<i>Year</i>	<i>Total Population</i>	<i>Total of Criminal Offences reported to Police *</i>	<i>Total of Infanti- cide reported to Police</i>	<i>Total of Conceal- ment of birth reported to Police</i>
1950	1,267,000	25,500	1	1
1951	1,494,000	36,700	4	5
1952	1,606,000	41,600	5	1
1953	1,650,000	41,200	4	3
1954	1,689,000	44,200	1	1
1955	1,750,000	46,500	3	1
1956	1,828,000	48,900	5	3
1957	1,930,000	50,800	3	4
			Total 26 †	19 ‡

* Misdemeanours and felonies.

† In six cases the offender is unknown.

‡ In eight cases the offender is unknown.

TABLE II

Convictions of Infanticide per 1,000,000 Population ¹

<i>Year</i>	<i>France</i>	<i>W. Germany</i>	<i>Switzerland</i>	<i>Holland</i>	<i>Denmark</i>
1950	1.63	1.31	1.48	0.10	—
1951	1.71	1.17	1.70	0.58	0.23
1952	1.51	1.31	1.27	0.48	—
1953	1.24	1.27	1.48	0.38	0.46
1954	—	—	2.12	—	—

Police files show that in a number of cases there is not enough evidence for a charge of infanticide so that the lesser charge of concealment of birth is preferred. This is resorted to where the offender has concealed the body of a child having died of unnatural causes, but cannot be convicted of having killed it. In the majority of concealment of birth cases death has been caused by natural causes. In these cases unmarried mothers tried to conceal the fact of having given birth to a child from their families, or families of unmarried mothers tried to conceal the birth from their neighbours. Whereas in almost all cases of infanticide the women concerned had no help in committing the offence, concealment of birth has often been committed with the help of members of the family or the putative father. We will not concern ourselves with another offence related to infanticide, child exposure, which has been defined in the criminal code (s. 184) "unlawfully abandoning or exposing a child under the age of two years, thereby endangering its life or whereby its health is likely to be injured." As far as results go and from a legal point of view there are of course great differences between infanticide, child exposure and concealment of birth, but motivation, social circumstances and psychological make-up of the women involved are often much the same.

We were able to include in this review thirteen out of the twenty cases where the offender was known, of the period 1950-57. These were mostly cases referred to probation officers for pre-sentence investigation, as in all the other cases the necessary data were lacking.

¹ Réponses au questionnaires relatif à l'étude de l'Infanticide en criminologie et en droit pénal, including: Réponse établie pour le Ministry of Justice, Government of Israel, 1955, prepared for the Strasbourg Conference on Infanticide, 1956.

THE PROBLEM OF INFANTICIDE

The number of our cases is small, and hence statistically inconclusive, but in our opinion they show some characteristic features and trends. As there is no common policy of Israeli courts as regards pre-sentence investigation, those cases referred by courts all over the country to probation officers for investigation may be considered representative of infanticide cases brought before the courts.

TABLE III

Details of Convictions

Of the thirteen women involved, all of whom had been charged with infanticide:

Convicted of infanticide ...	9	(1 woman was convicted of 2 cases)
Convicted of concealment of birth (charge having been amended in court)	2	
Stay of proceedings ordered by the Attorney-General	2	
Total	13	

TABLE IV

Details of Sentences

No sentence given			
(Stay of proceedings) ...	2		
Bond of good behaviour ...	3		
Fine ...	...	...	1
Prison ...	...	...	1
Probation ...	...	...	6
Total	13		

Personal background

Except one, all thirteen women under review were under twenty-five years of age, the average age being 19.4 years. It is generally

accepted that infanticide is an offence mainly committed by young women. The Israeli offender is younger than her European counterpart.¹ This might be explained by the fact that girls of oriental communities mature at an earlier age. It is sometimes assumed that young girls who have sexual relations out of wedlock become pregnant because of ignorance of the nature of these relations or due to lack of self-control. Inner conflict as regards pregnancy combined with environmental pressure might in some pathological personalities lead to infanticide. Only one of the women under review was an adolescent and all but one were in a position to marry under Israeli law. In the material at our disposal there is nothing to indicate that chronological age has been a factor of motivation in the offence.

The fact that most of the women concerned (ten out of thirteen) are unmarried is in accordance with the situation in other countries, as the great majority of infanticides are committed after an out-of-wedlock pregnancy.

Seven of the thirteen women (five from oriental countries and two from Europe) immigrated to Israel after the establishment of the state in 1948. Four were Israeli born, including three Arabs. When taking all cases of infanticide into consideration it transpires that immigrants have no more than their proportionate share in this offence.

Amongst the occupations of the thirteen women domestic service is predominant (eight cases). This fact is in common with many European countries; in others the majority are agricultural labourers (*i.e.*, farm hands) or factory workers. Of the cases investigated by us none had had any vocational training, except for two semi-trained workers, an assistant nurse and an office worker.

There is nothing to suggest that economic factors played an important part in motivation.

Only one out of the thirteen women had had a previous conviction, having been put on probation for theft. No correlation was found between criminal propensities and infanticide. A survey of all cases of infanticide in Israel confirms this result.

Our material does not point to any conclusions regarding distribution of the offence in town and country. In Germany and Austria, for example, the majority of cases occur in rural areas. It

has been suggested that both hospitalisation for birth and abortion can be more easily secured for town dwellers. These considerations seem to have played no part in our cases. Cultural differences and standard of living in Israel cut across urban and rural areas and are related to countries of origin of immigrants and to their degree of absorption. One often finds a low standard of living and primitive outlook amongst town dwellers as against a high standard of living of more civilised settlers in agricultural settlements. Medical facilities are available in town and rural centres. Hospitalisation for birth is free, constituting one of the services of the National Insurance Institution.

The offence

The offence was mostly committed by strangulation or by not severing the umbilical cord, and was done—with the exception of one case—within twenty-four hours after birth. In the exceptional case a young unmarried mother was asked five months after the birth of her child to leave the agricultural settlement where she had been living during the last few months of her pregnancy and she had nowhere to go.

The corpse was disposed of by depositing it under a bridge, in a street, in a cave, on a field, or it was thrown into a well or into the sea. In some cases the body was found in a toilet or garbage can. Ways of disposal seem to indicate the absence of any previous planning. Indeed, in some cases offenders were easily identified by laundry-marks on the linen in which the body was wrapped. We were struck by the fact that in a number of cases mostly “dirty” objects were brought into contact with the body, *i.e.*, toilet, garbage, dirty sacks, rags and other objects described by both the offenders and witnesses who had found them as dirt or rubbish. The child, before or after birth, has apparently been identified with a dirty object and therefore been treated in this way. We are not overlooking the fact that the women concerned were under the influence of the after-effects of birth and that the articles they used for disposal might have been those most easily accessible at that particular time or traditionally used for purposes of disposal of waste (*i.e.*, garbage can or toilet).

The offender and her offence

In most of our cases the girls concerned were under considerable emotional stress. Often they were trying very hard to hide their pregnancy from their families with whom they were living, as well as from their friends and neighbours. They were actually denying their pregnancy to themselves, and consequently took no notice of it. They showed no consideration for their state of health and in many cases actually continued in employment till the hour of birth. They were often surprisingly successful in deceiving others. In one case a landlady did not notice the domestic servant's pregnancy till she had actually given birth to a child near her home, and in another case the husband had accepted the explanation that his wife was suffering from gland trouble causing obesity. In a few cases pregnancy was hardly recognisable, in other cases people coming into contact with the pregnant woman apparently ignored the pregnancy for a variety of reasons. After the fact of the infanticide had become known, conscious or unconscious feelings of guilt might have coloured statements of those living closely with the woman concerned and they therefore denied any knowledge of the pregnancy. The tendency of denial of pregnancy seems to be characteristic of cases of infanticide. Sometimes it appears that the girls themselves did not recognise the symptoms of pregnancy or were not aware that they were about to give birth. In two cases abortion was considered at some stage but not carried out. In all cases under review no preparations whatsoever had been made for the arrival of the child. Some of the girls were rather promiscuous, others had become pregnant after their first sexual experience. Two Yemenite girls had had sexual intercourse from the ages of eight and twelve respectively, when they were married off by their parents. Only very few of the girls had any knowledge of birth control, and those who had did not practise it. Fears and misconceptions in the sexual sphere were common. One girl practised *coitus interruptus* and thought that only after marriage was there any danger of pregnancy. Another stated that she had lost her virginity through an aunt who had drugged her and then ruptured her hymen as an act of vengeance against her mother.

Family background and family relationships

As pointed out before, all the girls were under considerable stress to hide their pregnancy from their families and in a few cases they had left their homes. Some girls pointed out their particular fear of their fathers. In one case the mother, a widow, left her daughter and went to live with her son as soon as she had become aware of her daughter's pregnancy. One girl denied having a family in Israel, being afraid of her parents' reaction to her pregnancy. Her family was only traced after the conclusion of court proceedings. In the majority of cases the families denied emphatically having had any knowledge of their daughter's pregnancy. The reaction of members of the family to the offence, when informed about it, showed various degrees of rejection, mostly related to their previous relationship with the offender. In one case the parents declared their daughter "dead," in another the father refused to stand bail for his daughter.

Only two out of twelve women had a normal and stable family background. (In one case details are not known.) Of the other ten :

- No. I: Quarrels between parents during early childhood.
Father spending his time and money playing cards.
- No. II: Father married three times and absent from home for five years.
- No. III: Separated from mother since the age of one year.
Brought up by grandmother.
- No. IV: Mother died when offender was four years old.
- No. V: Father died when offender was eight years old.
- No. VI: Father killed when offender was nine years old.
- No. VII: Parents killed when offender was nine years old.
- No. VIII: Father drowned when offender was twenty years old.
(Three years before the offence was committed.)
- No. IX: Father deserted the family when offender was eight years old.
- No. X: Parents divorced when offender was four years old.

In almost all cases it was mainly the relationship with the father that was affected. In some cases fathers were described not only as dominating figures in the family but as rejecting and tyrannical.

We have no conclusive information on relationships with mothers. Domination by one parent has been considered an ever-present factor in the family background of unmarried mothers, but, according to a study carried out in the United States,² dominating fathers seemed to be fewer than dominating mothers.

Who are the men responsible for these girls' pregnancies? As all pregnancies, except one, occurred out of wedlock, the information at our disposal is very scanty indeed. The girls were under no legal obligation and generally very reluctant to give any information at all to the police, courts and social workers. Some of the men were described as casual acquaintances with whom they had had sexual intercourse once or twice and who had broken off contact afterwards. Their family names and addresses remained unknown and no effort was made by the girls to locate them. There seems to have been no emotional attachment whatsoever. In three cases the girls stated that the men had promised marriage and so secured their consent to sexual intercourse. One girl stated that she had been raped. Only two of the men had kept in contact with the girls during their pregnancy and both got married to these girls later.

Psychological considerations

From what has been said it may be concluded that psychological factors play an important part in the motivation of infanticide. These factors come to the fore more clearly in a society where the socio-economic difficulties for unmarried mothers are relieved and prevention or interruption of pregnancy is facilitated and loses its social stigma. However, even if the socio-economic factors are eliminated, the psychological ones prevail. Since it is much more difficult to influence these factors, we find that the offence continues to be committed and the level of its incidence apparently approaches an irreducible margin.

As stated before, the physiological processes connected with the delivery are considered to have an important influence on the state of mind of the mother. According to H. Deutsch,³ "after a very

² Leontine Young, *Out of Wedlock*, McGraw-Hill, New York, 1945. (It is doubtful if these results are valid for other countries and cultures.)

³ H. Deutsch, *The Psychology of Women*, Vol. II, Grune & Stratton, New York, 1945.

painful and exhausting delivery, the young mother's anxiety and aggression are intensified." In many cases delivery causes psychological changes, usually slight and of short duration. However, when they are intensified, they may develop into a real postpuerperal psychosis, mostly with depressive and confusional traits.⁴ At the same time it has been demonstrated that there is no connection between the difficulty of the delivery and the severity of the psychological reaction, as Deutsch supposes. It appears possible that, even where psychological changes are not manifest, certain subclinical tendencies prevail leading to a so-called "defusion of instincts" with a regressive release of aggressive instinctual forces coinciding (concurring) with a weakening of the "ego" functions and regulations.

We could not ascertain, in the cases studied, what the state of lucidity was after the delivery. However, postpuerperal confusion seemed to be very rare among them, and we gained the impression that their state of consciousness was similar to that occurring occasionally in emotional upheavals or in connection with strong irresistible impulses.

The offenders are generally divided into a more active and a more passive group. However, no clear-cut dividing line between them is discernible. We found that more of the offenders tended to be of the passive type. These are women with pronounced ambivalence and difficulties in making decisions, sometimes mentally dull and with a tendency to activate primitive mechanisms of denial. This accounts for their inability to come to a decision in connection with the unwanted pregnancy, such as having an abortion. They fear sterility as a result but there are also other kinds of anxiety, not always fully conscious.⁵ Thus they continually postpone action, until infanticide appears to be the only solution. The fact that there are generally no preparations made for the event of the birth fits well into this picture.

⁴ According to statistical reports from two psychiatric hospitals in Israel, 9.5-11 per cent. female admissions are due to puerperal psychoses; see Harefuah 40:81 (1951) and 52:142 (1957).

⁵ Contraception is not practised for various reasons. Many women who are passive in character, or mentally dull or primitive, may not be acquainted with the techniques, or they may be negligent. But every psychiatrist of average experience knows situations where the most "correctly" done preventive measures failed again and again because of unconscious factors. One of our patients, married, intelligent, failed in her preventive efforts, succeeded in keeping her pregnancy secret from her family and twice committed infanticide.

The extremely rare cases in which infanticides are committed more than once suggest compulsion-like repetitive mechanisms. Partly we have before us cases of mental illness, like the case of the Irish woman who committed infanticide six times before she was discovered in 1953.¹ Another case was that of a Swiss girl who relapsed after serving a sentence of ten years in prison for infanticide.

Women who commit infanticide are psychologically different from child murderers. The latter are usually clear-cut psychotics, as far as one can judge from experience and from literature. Ch. Bender has discussed the psychiatric mechanisms of child murderers in a special article.⁶ She is of the opinion that hate is only of secondary importance as a motive for the crime. Much more important are "identification processes. The child is experienced as the hypochondriacal organ, upon which the symptoms are projected. What may first be a suicidal drive may gradually be converted into a tendency to kill both herself and the child and finally to kill only the child." The destruction of the child is thus to be considered as a substitution for a suicidal or homicidal act. Suicidal thoughts with a tendency to self-punishment play a decisive role in the clinical picture along with other psychotic symptoms. The criminal act leads first to a reactive intensification of the psychotic symptoms while their alleviation is not achieved until a later stage.

The situation is quite different in cases of infanticide. With the exception of one case none of our patients suffered from a psychosis. As stated above, the offenders experienced the newborn child as a dirty, anal object that must be removed just like faeces. This is not only shown by the behaviour during and after the criminal act as described above, but was also confirmed during the psychological treatment of one case.

Guilt feelings are less manifest and their absence may contribute to the uncanny feelings towards the offender occasionally reported by the patient's relatives and friends. Neither do they suffer from longstanding "pathological" depressions with manifest ideas of suicide.

⁶ Ch. Bender, "Psychiatric Mechanisms in Child Murderers," *Journal of Nervous and Mental Diseases*, 80: 32 (1934).

The data in the previous pages indicate that the father-relationship was seriously disturbed in almost all of our cases. It may be of interest to note that in the patient who underwent psychotherapy a psychotic-like episode could be discovered in the third year of life as a reaction to a relatively short separation from her father. The little girl was then completely apathetic, refused to get up and to eat. Medical intervention was necessary because her life was endangered. She recovered after the return of the father. In later life she was successful in school and work and never showed psychological disturbances.

The woman who commits infanticide seems psychologically closer to the "abortionist" than to the child murderer. Infanticide must historically be considered a forerunner of abortion and its practice was quite frequent and almost common in ancient times.⁷ Although this may not immediately appear, an intensification of guilt feelings is to be found in either case and the need for expiation finds its expression in various ways. For example, we could observe that members of *kibbutzim* (collective settlements), after having arranged an abortion, deliberately became pregnant again after a short interval, to the great surprise of their fellow-members who had witnessed their great efforts to have the abortion carried out. Likewise, the majority of our cases of infanticide married a short time after the offence, gave birth to children and proved to be good mothers. Our investigation may prove that there is wisdom in the legal procedure which sharply distinguishes between infanticide and other kinds of murder.

After-career

We have made no follow-up study of these cases, but have received some information from social agencies and probation officers. Of the twelve unmarried, widowed or divorced women at the time of the offence, seven married mostly within a few months after court proceedings. All are mothers of children now. The only married woman in our study has also given birth to a child recently. According to the limited material at our disposal they seemed especially anxious to marry as soon as possible and to have children.

⁷ G. Devereux, *A Study of Abortion in Primitive Societies*, The Julian Press, N.Y. 1955.

The period of pregnancy created in some cases many emotional problems. In one case a natural miscarriage was felt as a punishment. This tendency to expiation by quick marriage and reproduction points also to the direction of psychological similarity between women committing infanticide and those undergoing abortions, as mentioned before.

Our information as regards the other five unmarried girls is as follows: one detained in a mental hospital; one emigrated to Jordan; two lead an unsettled life, working on and off; one is a part-time prostitute; no information available in one case.

Conclusions

The number of infanticide cases in Israel is very small and has remained fairly constant in spite of the great increase of population and the accompanying increase of criminal offences reported to the police (see Table I). The small fluctuations in the numbers of infanticides committed yearly are common to Israel and European countries. We are perhaps near the irreducible margin, as deep-lying psychological forces appear to be decisive. The scope of effectiveness of social and educational measures in prevention seems limited. Punishment will constitute no deterrence for other potential offenders. The most rational approach to the offender is combined social and psychological treatment. Only very few will require hospitalisation or institutional treatment. The after-careers of the offenders in our group point to the natural trend in making restitution after the offence by marrying and giving birth to a child. It would be in accordance with a progressive approach if courts were to assist and strengthen this process by constructive measures such as probation.

CURRENT SURVEY

RESEARCH AND METHODOLOGY

CURRENT RESEARCH LXXVI
(Continued from Vol. I, p. 376)

A CLINICAL AND PUBLIC MENTAL HEALTH APPROACH TO DELINQUENCY CONTROL

(1) *Name of University Department, Hospital or other Institution or private person supplying the information:* Division of Mental Hygiene, Department of Mental Health, Commonwealth of Massachusetts.

(2) *Subject of Research:* A public health oriented approach to delinquency control is being developed by: (1) defining high and low delinquency areas; (2) refining diagnostic assessment methods by imposing controls on the diagnostic process; (3) deriving categories of court delinquents with differential treatment needs from relevant quantified clinical judgments; (4) determining the essential psychosocial differences between court delinquents in high versus low delinquency areas, categories of delinquents with differential treatment needs; and recidivists versus non-recidivists; (5) using these differentiating psychosocial characteristics to guide the direction and contents of a control programme.

Current status: psychiatric, psychological, group interactional, social and physical health data schedules have been developed. Preliminary classifications will be tested by follow-up and comparison group studies.

(3) *Under whose auspices is the research being carried out?* Financed by National Institute of Mental Health. Administered by South Shore Mental Health Association. Programme director: Dr. Bellenden R. Hutcheson. Co-director: Dr. Jacob I. Hurwitz.

(4) *Commenced:* April 1958.

(5) *Publication:* No results so far published.

NOTES

A COMMENT ON THE INGLEBY REPORT *

W. E. CAVENAGH

THE 64,000 dollar question which confronted the Ingleby Committee was whether the juvenile court should be retained at all as a method of dealing with child offenders. Behind this lay the fundamental question whether any alternative system which might be devised should include a requirement that specifically-defined allegations should be proved before compulsory powers of treatment or punishment could be assumed.

After a careful survey of the grounds both for change and for retention the Committee answered the second of these questions in the affirmative. "The maintenance of this basis," *i.e.*, strict legal proof of allegations, "is essential if State intervention is to be fitted into our general system of government and be acceptable to the community." It was then a short step to the conclusion that the present juvenile court still provides the most effective machinery for doing this.

Had these two answers been otherwise, and an administrative solution been preferred, the Committee might have taken more seriously its responsibilities in regard to the second half of its terms of reference. As it was, to the great disappointment of many social workers and students of social problems, those matters now appeared to be mainly outside its province. Thus the discussion of the adequacy of the powers of local authorities to prevent or forestall the suffering of children in their own homes occupies only 10 out of the 153 pages of the Report, and is reflected in four out of the 125 recommendations. Chapter Two, which deals with these matters, does not seem to be very closely connected structurally or logically with the rest of the Report. One suspects that the original decision to combine these two subjects—the procedure for dealing with young offenders and the prevention of neglect of children in their own homes—within the terms of reference of one Committee of Inquiry may have been taken in the expectation of recommendations much more radical than those which have been offered. The Committee's actual recommendations meant that, in the future as in the past, the criterion for State intervention will not be simply the treatment or punishment needs of the child, as such, but the existence of certain grounds which have been defined by legislation and judicial decision and provide the legal basis for proceedings before a court.

The Committee see the weakness of the present system in their finding that the court often appears to be trying a case on one ground and dealing with the offender on some quite different ground. The petty theft brings "a

* Report of the Committee on Children and Young Persons, 1960. Cmnd. 1191. H.M.S.O.

disproportionate sentence" because of seriously disturbed home conditions. At first sight it might be thought that the proper way to deal with sentencing, which is disproportionate or unrelated to the grounds for intervention, would be by way of appeal. There are many instances of appeals such as these having been successful, though for various reasons they have usually been made on behalf of offenders in the fifteen to twenty-one age group. On the other hand, seriously disturbed home conditions may indeed be proper grounds on which to base an Order following a finding of guilt in a criminal case, if they appear to be contributing to the offender's criminality and the criminality and record are serious. Rule 11 lays down the procedure for the reception of home background reports in juvenile courts, and is intended to ensure that parents and offenders are fully informed of the matters which the Bench are regarding as material to how the offender should be dealt with. If this Rule were properly observed, there would be fewer Orders which appear to the offender and his parents to be disproportionate.

The weakness of the present system appears rather to be, on the one hand, that juveniles are not usually represented in court and very seldom go to appeal and thus really "disproportionate" sentences are not set aside; and on the other hand (partly because of the absence of this check and partly due to a combination of good intentions with a lack of judicial-mindedness on some Benches) that the duties laid upon the Bench under Rule 11 are in many courts not taken seriously. According to the Committee, however, the trouble is inherent in combining the requirement for proof of a specified event or condition with a general direction to have regard to the child's welfare. The combined effect of the modifications in procedure and penalty in the juvenile court together with this general requirement in the Act of 1933 has been, they suggest, to produce in criminal cases a jurisdiction that rests on principles that are hardly consistent—a jurisdiction that is not criminal. There is some very confused thinking here. This is particularly unfortunate since the Committee sees the point as basic to the deliberations which led to its main recommendations in regard to the age of criminal responsibility and the use of penal provisions. There is in reality no inconsistency in the law or the principles of jurisdiction in the juvenile court when dealing with offenders. The general direction to "have regard to the welfare of the child" is a direction to "all courts" and specifically relates to how a child is to be dealt with after a finding. It does not relate to the jurisdiction of the court in trying the case. In relation to the post-finding stage the section lays it down that every court "shall in a proper case take steps for removing him from undesirable surroundings and for securing that proper provision is made for his education and training."

That the welfare of the offender, whether adult or juvenile, is one of the matters to which a court should have regard in sentencing is a principle which was already widely accepted long before the Children and Young

Persons Act, 1933, made its explicit statement in relation to children and young persons as a perpetual reminder. It is for the court to decide what is "a proper case." The view that it is often right to discriminate in sentencing so as to recognise and allow for the chance to reform is considered to be of particular importance in relation to young offenders. When the Bench is reviewing the methods of disposal appropriate in a particular case in the juvenile court, therefore, the welfare of the offender and the undesirability of his present surroundings may more often be the deciding factor in the choice between one Order and another.

There is, however, no statutory authority whatever for the view that in dealing with an offender in the juvenile court his welfare is to be the overriding consideration, still less the only point the court is to have regard to. It is true that the 1927 Committee on Young Offenders recommended in so many words that "the welfare of the child or young person should be the *primary* object of every juvenile court." But the Children and Young Persons Act of 1933 provided only that the court is to have regard to his welfare, and that is where the matter rests today. Misunderstanding on this fundamental point is widespread amongst lay people, and we find even such an authority as J. W. D. Pearce¹ falling into error: "This Act laid down clearly that the welfare of the child or young person is the first consideration." Many juvenile court magistrates, also presumably their clerks, and now even the members of the Ingleby Committee, seem unable to grasp the fact that recommendation number two of the Committee on Young Offenders was *not* embodied in our law.

Cases where the sentence—really intended to deal with disturbed home conditions—was regarded by those concerned as "disproportionate," because not justifiable in reference to the criminality of the offender, would surely have been better brought before the court in its civil jurisdiction as out-of-control or care-and-protection cases. Here the home conditions themselves can be put in issue and the welfare of the child is the primary object of attention. Orders made as a result will obviously be relevant to the matters laid before the Bench under the ordinary rules of evidence during the hearing. Later on in their Report the Committee recommend that, before taking a case to court under their new suggested procedure, the police should be required to consult with the local authority so that proceedings, if taken, will be taken upon the most suitable grounds in the particular case. This seems an excellent suggestion and might go far to meet the problem. But is there any reason why such a requirement should not be laid down as part of the present procedure in regard to charges and allegations against children? The suggestion does not seem to rest necessarily upon the raising of the age of criminal responsibility or the rest of the suggested new procedure for dealing with offenders under twelve.

¹ *Juvenile Delinquency*, p. 9, Cassell 1952.

The main difficulty, however, is one which would not be met by greater frequency of appeals, strict observance of Rule 11, or the transfer of appropriate cases to the civil jurisdiction of the court as matters stand at present. It is seen in the case where the home conditions cannot be said to have contributed to any great degree of criminality, since the offence and record are trivial, and though in the opinion of the Bench these conditions are highly undesirable, they do not provide grounds adequate as evidence to prove a care-or-protection case as the law stands at present. It is in these circumstances that a sentence designed to deal with undesirability of the home background may seem disproportionate to the parents of a child who has stood his trial in a criminal court. And an appeal in such a case might well mean that the child's home situation could not be dealt with by a court at all.

Baffled by the anomaly presented by these "disproportionate" sentences which, we are told, juvenile courts "often" find themselves passing, and by the discrepancy between the primary purpose of a criminal court and what it seems to regard as a statutory obligation to regard the welfare of the child offender as paramount, the Committee does not face—or apparently even see—the underlying problem, which is that of redefining the grounds upon proof of which a care-or-protection case may succeed, so as to bring in the sort of case indicated above which would not succeed at present. Would it not be possible to draft wider provisions which Parliament would accept and which would enable the State to intervene on the ground of a child's disturbed home background much earlier than at present? What the Committee does instead is to recommend raising the age of criminal responsibility at first to twelve, then later to thirteen and fourteen, so that all children under these ages should, in future, be dealt with under the civil jurisdiction of the court.

This might have been the end of the matter, simply to deal with them all as care-or-protection cases (as with under-eights now), but the Committee was too realistic not to try to face the difficulties likely to arise from the fact that the main business of the juvenile courts with under-twelves is the trial of offenders and that many of these appear to be in immediate need of penal sanctions or discipline of some kind, whatever else they may need in addition now or in the long run, and that this applies also to a proportion of those who already, under the present system, are the subject of care-or-protection proceedings. The Committee's solution is that, although under the new procedure the court should "move further away from the conception of criminal jurisdiction," at the same time the grounds of complaint should be changed to "being in need of protection and *discipline*."² From then on the Committee seems to be making a valiant effort, in this part of its Report, to reconcile incompatible objectives and to sit on at least two stools at once.

It is worth looking a little more closely at the implications of these recommendations. In rejecting the argument (para. 71) used by those who

² Italics ours.

favour substituting a non-judicial tribunal for the juvenile court—that the change would avoid the stigma of a court appearance and of a finding of guilt—the Committee say shrewdly: “We think it likely that any stigma there may be would come to attach to appearance, as a result of bad behaviour, before any tribunal.” So the change may, in that respect, be no gain to offenders. But what about the non-offenders? Under the new suggested procedure it appears that all against whom there is a finding will be in one category “in need of protection or discipline,” with no distinction between the persistent thief, the neglected baby aged three months, and the eleven-year-old victim of ill treatment. There is a risk that all will be tarred with the same brush. The offender may get the benefit of the doubt when he replies in the affirmative in an interview for employment to the question “Have you ever been in court?,” but the doubt is also likely to be there in face of the non-offenders’ explanations in the same situation.

The strength of public feeling against people who commit criminal offences is only too clearly reflected by the amount of stigma which no one disputes attaches to the person known to have been convicted. As the Committee point out, the stigma on the proved offender is likely to remain in any event. But as Lady Wootton noted in a letter to *The Times*,³ a damaging side effect of the new procedure would be that, in deciding whether a child had in fact committed the criminal offence alleged, a lower standard of proof would be accepted—the “balance of probabilities,” as against “beyond a reasonable doubt.” This is a retrograde step.

The great advantage of the new procedure should be that what is before the court, and is to be dealt with, is the child’s need and not, as such, his guilt. This would simplify the situation where the child is both an offender and could also have been the subject of successful care-or-protection proceedings. But a closer look at the proposition raises doubts as to whether, apart from this, the position will in reality be changed much, if at all. As far as treatment is concerned the offender, whose social background is satisfactory and against whom there are no allegations except the offence, will presumably be in broadly the same position as now. Where his home background is not regarded by the Bench as satisfactory there must presumably be a relation between some proved and specific facts and the weight of the subsequent Order. It is difficult to see how the need for interference with the home situation could simply be left to the personal opinions of the particular magistrates who happen to be on the Bench. It is not clear why Orders disproportionate to the offence and record and made on the ground of a home situation which does not nearly amount to a care-or-protection case, would be regarded as fair by child or parent under the new procedure any more than they are now. The title of the proceedings may make it a little easier to make non-punitive orders in criminal cases without affronting public

³ *The Times*, November 10, 1960.

opinion but, as the Committee point out, the court will still have to carry out the duty of protecting the public against crime. In the type of case quoted the crime will still be the fact, on proof of which the court acquires any right at all to interfere with the child or his parents.

It is very difficult to see how the new procedure would, in itself, enable the court to assume an entirely free hand in deciding what was best for the child's welfare as a whole without being limited by reference to the facts of the case. One is left with the unnerving suspicion that a lack of relationship between the proved criminality of the offender and the treatment order made may be precisely what the Committee means by moving "further away from the conceptions of criminal jurisdiction" (para. 77).

When we look at some of the other provisions it does rather appear as if something like this is meant. In paragraph 293 the Committee recommends in rapid succession that the minimum age for attendance at an attendance centre should be lowered from twelve to ten, then that the restriction to offenders who have committed offences which would render an adult liable to imprisonment should be removed, and finally that the whole thing should be thrown open for the courts to use on children aged ten who have "not committed any offence." Inappropriate as it seems to some people for twelve-year-old offenders to be put under discipline by the police force as a punishment, it seems a much odder suggestion that this is the appropriate way of handling ten-year-olds who have not broken the law. Again (in para. 317) the Committee considers that there are exceptional cases where punitive detention is the appropriate treatment and exemplifies this by quoting a criminal example. They go on, however, to recommend quite simply that this treatment "should be available in cases of protection or discipline" if "the court considers no other treatment as suitable" with no restrictions apparently on the type of allegation. The position which seems to be reached is that moving "further away from the conception of criminal jurisdiction" means amongst other things that children under twelve who are to be regarded by definition as irresponsible and, in this respect, in sharp contrast to their brothers of over twelve, and without the necessity of proving the existence of *mens rea*—in some instances without even the suggestion that an offence has been committed—are to be punished by a court of law for their behaviour.

As the Report has it (para. 110), "In practice it is becoming more and more difficult to distinguish between punishment and treatment." But the reader suspects that the difficulty varies according to one's own position in the situation. A few paragraphs earlier (para. 106) we are given a picture of the Committee's own rather curiously expressed view of the sentencing policy of the juvenile court. "Under both these procedures," *i.e.*, the new for the under-twelves and the old for the twelve to seventeen-year-old group, "the court will often be trying to produce several different and conflicting results.

It must try at one and the same time to protect the public, to promote the welfare of the child and to stress the responsibility and respect the legitimate rights of the parents. Finally it must satisfy public opinion that justice is done." A situation apparently in which all the objectives aimed at are equal and none are more equal than the others!

It is suggested that the protection-or-discipline procedure should be used for all children under twelve who commit offences, and for all children who are in need of care or protection or are beyond control as at present defined. The recommendation which has aroused most interest after the raising of the age of criminal responsibility is the one under which it is suggested that authority to initiate proceedings under this new procedure should be confined to the police or the local authority. This provision would remove the present power of a parent to bring his own child before the court as out of control, and of the N.S.P.C.C. as a body authorised under the Children and Young Persons Act, 1933, s. 62, to initiate care-or-protection proceedings.

The proposal to exclude the parent has already won support in well-informed quarters (*cf.*, *e.g.*, Mrs. Howard's review).⁴ It is designed to do away with the present situation in which, in order to succeed, the parent is obliged to make a sort of public rejection of his own child by denigrating him in front of all who may be present in court at the time. It also remedies the situation in which the parent refuses to bring such proceedings (which at present no one else can bring) although the child may be making himself a nuisance in the neighbourhood by committing acts which would be an offence if he were over eight. In approving the intention behind this proposal, however, it should be noted that, in the event of an official refusal to bring proceedings, a desperate parent is left with no appeal to the courts. A procedure superior in this respect would be to lay a requirement upon a parent wishing to institute proceedings to consult the Children's Officer and only bring proceedings himself if the Children's Officer refused to do so. In that event the court should be obliged to require the Children's Officer, or his representative, to attend the hearing and state his reasons for not bringing proceedings.

The exclusion of the N.S.P.C.C. seems to have come as a surprise and has met with a much less favourable reception. The Committee mention in their Report that it was not put to the Society as they had already given their evidence before the point was raised (one would not have thought this to be an insuperable difficulty) and nothing is said as to whether any evidence was received to suggest the change, or on what grounds the proposal is based. The Society has been criticised in some quarters on the ground that few, if any, of its officers have received a professional training in social casework. If this is so the long-run interests of the Society would suggest that it would be well-advised to use the situation to press for greater financial support with

⁴ This Journal, Vol. I, No. 3, p. 265.

a view to improved training, rather than to jeer at trained workers as there seems to be a certain tendency to do. The latter is a course which seems likely eventually to undermine public confidence.

In some areas it is, by agreement with other bodies concerned, always the N.S.P.C.C. which prosecutes, as it is felt that the prosecution by the local authority is likely to prejudice the efforts of the authority's field workers to gain the co-operation of the family it is hoped to rehabilitate. Other voluntary agencies which have no power to prosecute also appreciate the help of the Society in this respect. At best the proposal to exclude the N.S.P.C.C. may be regarded as premature. The broad functions of "The Cruelty" are very widely known and well understood, especially in the districts where they are most necessary. In some urban areas a large proportion of the relevant information received by the Children's Department comes from the Society. Much of the information received by the officers of the Society is by means of anonymous messages, notes or 'phone calls. Other information is given directly by relatives or neighbours, who would hesitate to report to an "official" or local authority body, which might have difficulty in observing confidentiality, or risk entangling themselves in "rules and regulations." In addition the principle of leaving it to the very administrative department which will be put to great expense if the proceedings are successful to decide whether proceedings should be initiated, though by no means unprecedented, does not recommend itself. Under the proposal as it stands there would be no appeal from a decision which might be based at least partly upon administrative inertia, muddle or cheeseparing. We would suggest an amendment similar to that made above in regard to proceedings against children who are out of control.

The Report is interesting on the subject of free legal aid in juvenile courts. The Committee rather reluctantly urge the magistrates to exercise more readily their power to allow free legal aid in criminal cases and propose that provision should be made to include proceedings under the new protection-or-discipline procedure, since the present provisions do not include civil cases in the juvenile courts. If such provisions were not made defendants under twelve would lose the facilities they have at present under the Poor Prisoners' Defence Act, 1930. The discussion on these points is particularly interesting, not only for the summary of arguments for more legal aid, so admirably presented by "many of our witnesses," but also for what it reveals of the Committee's own attitude to the juvenile court. Legal aid is thought to be less necessary in juvenile courts on the ground that under the Rules the young defendant may be assisted in his defence by his parent or relative or any responsible person. If he is not legally represented the court itself is required under the Rules⁵ to help him with the cross-examination. The Report sums up the position thus: "provisions of this kind make it less

⁵ Summary Jurisdiction (Children and Young Persons) Rules, 1933, r. 9 (2).

necessary for a child to be legally represented. . . . The justices are in a closer relation with the parties and depend on having a child's full understanding of his situation for making the right impression on him: the salutary effect of appearing in court may be diminished if legal argument, however well justified as such, obscures the substance of the proceedings." In fact, of course, the "closer relationship" if not illusory is very much a matter of chance and varies widely from one Bench to another. In many divisions this would be far truer of the Domestic Court which is often more private, more intimate and where it is just as important to the justices that the parties shall fully understand their situation. Yet the provisions of the Legal Aid and Advice Act have now ⁶ been extended to proceedings under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895-1925, as well as to affiliation and guardianship proceedings. It has, of course, for many years been common practice in summary courts generally for Chairman or Clerk to help an unrepresented defendant in his examination of witnesses if necessary and to ask him questions on points which it appears to be in his interest to bring forward. The Summary Jurisdiction (Children and Young Persons) Rules, 1933, simply make this common practice an obligation in the case of unassisted juveniles. They do not carry the implication that the practice is either non-existent or unsuitable in the context of other summary courts.

It is also not clear why legal aid must be forgone in order to preserve "the salutary effect of appearing in court." If there were anything in this extraordinary argument why should it apply only to juveniles? And why has the innocent defendant, as well as the guilty, to be exposed to a "salutary effect"? The defendant, whether guilty or innocent, is in the court solely in order that the charges may be heard and determined and the sentence decided upon. The court appearance and the proceedings are not, in themselves, intended to be either reformatory or punitive. Do the Committee desire the court appearance to exert its salutary effect also on a child brought before the court in care and protection proceedings as the victim of a First Schedule offence?

It may be true that, as the Committee says (para. 250), "the methods and procedure of a juvenile court, even in criminal cases, differ from those in other courts," but the differences are very slight. None of them is of a fundamental character. The procedure in juvenile courts, as in adult courts, is accusatorial and not inquisitorial. The matter in hand is a trial of charges or allegations, not an inquiry into them. It is not the duty of the Bench to find out who did what. It is the duty of the parties each to put his own case in the best light, and for the Bench then to make a decision between them on the *evidence which has been placed before it* and according to law. The Bench is under an obligation to help the unassisted juvenile to put his case.

⁶ Legal Aid (General) (Amendment) Regulations, 1961, in operation from May 8, 1961.

But it cannot behave like a professional advocate and try "to show the justice of his case and the fallacies of his opponent's."⁷ It would be technically impossible to do so since the Bench is not fully informed of the defendant's case at that stage, and furthermore its inquiries cannot be allowed to develop into an actual battle with the prosecution.

Some of the most difficult points of law in criminal cases are precisely those which are likely to come up in the juvenile court, as, for example: the difference between stealing and *borrowing on the reasonable assumption that permission would have been given*, the identification of the offender, signed statements taken in the absence of parents and later disputed, questions of *mens rea*, receiving *knowing the goods to have been stolen*, stealing by *finding*, or being concerned with others (in committing an offence), etc. These are only some of the common instances in which the represented defendant has a much better chance of being found not guilty. Very often the unrepresented child and his parents do not even know that he has a defence. It should be obvious that the Bench cannot be expected, even under the specific provisions of the Summary Jurisdiction (Children and Young Persons) Rules, 1933, to substitute adequately for professional representation on points such as these. It is probable also that professional representation of the child offender makes the Bench more conscious of the possibility of an appeal against a "disproportionate sentence." It may rightly be thought that legal representation is in the interests of justice (as indeed it is intended to be) in the juvenile court as in any other.

The Report makes no contribution on the difficult subject of the unsworn statement except to urge the court to explain the pros and cons to parents and child in understandable language. The real problem here is, of course, how to get not the difference, but the *significance* of the difference across without appearing to be forcing a certain choice on the defendant. It is very painful to hear a shy and inarticulate child, who is unrepresented, choose to make an unsworn statement in a case full of unexplained anomalies and immediately following a statement for the prosecution by a police inspector on oath. For readers who may be interested the writer has found the following wording effective. "Just listen again. The police officer has given his evidence on oath. Now it's your chance to tell us your side of the story. You needn't say anything at all if you don't want to, or you can just say what you want from where you're standing now. If you do either of these nobody can ask you any questions. If you come over here like the police officer and tell us your story on oath you can be asked questions just as he was. Whichever you do we have to decide afterwards who to believe, you or the police officer. He gave his evidence on oath and we were able to ask him questions. Which are you going to do? "

The Committee ran into fairly deep water in considering the well-known

⁷ Cf. Egerton, *Legal Aid*, reprinted 1946, p. 2.

and thorny problems arising from the procedure for the reception of confidential reports by the juvenile court. They point out the harm that may result from indiscriminately reading aloud all the reports, whatever their content. This is illustrated by instancing cases in which a child hears "in public," *i.e.*, in court, for the first time that he is illegitimate, or his mother a prostitute or his father in prison, or another case where one parent hears for the first time of some circumstance which the other had kept secret. This leads to a discussion of the difficulties if nothing at all is disclosed or if the material parts are not disclosed, or even if the reports are not read aloud but are given to the parents to read.

A great deal more is commonly made of the difficulties connected with receiving reports—and the Ingleby Committee is no exception—than in our view the situation gives ground for. For example, there is nothing in the Rules which requires, or would justify, telling a child any of the matters mentioned above, since they do not bear on his own character or conduct. The parent must be told of factors which the court thinks make a difference to how the child ought to be dealt with and have reference to the parent's character or conduct, the child's character or conduct or home surroundings, or health. It does not follow that everything that is told to the parent must also be told to the child.

In the writer's experience, during twelve years in one of the busiest juvenile courts in the country, no occasions come to mind on which reports contained matters which really were "material to the manner in which he (the offender) should be dealt with," but nevertheless could not be passed on without damage either to him or his parents. This may be a matter of luck, but in some of the courts where most reports are received, the reports, especially those of the probation officer, have already been discussed with their subject and this seems to raise no difficulty in the way of necessitating the omission of essential but dangerous matters. As some of our readers will have done, the writer had the opportunity of reading evidence being submitted to the Ingleby Committee by fifteen or sixteen of the professional bodies whose members' work brings them into contact with the courts. This particular evidence may not, of course, have been representative, but it is noteworthy that some of those who have the most experience in the matter actually suggest that, whilst reports should not be read aloud, the court should allow the parents to read any written report submitted. In our experience, matter of which the parents cannot be told is generally highly speculative and non-factual in character, and in practice, though fascinating to read, it is not material to the manner in which the offender should be dealt with by a court. A great deal, of course, depends on what view the Bench takes as to which matters are "material," but one may certainly ponder on why anything which is not material to how the offender shall be dealt with is included at all—which is a very strong argument for letting the

parents read the actual report and for including nothing in it that they ought not to be told.

The Ingleby Committee may truly be said to have searched its soul on this whole question. Although "Some of us thought it would be necessary wherever a report contained a 'confidential' section, for the court to inform the parents of its existence (although not of its contents unless the child was to be sent away from home)" yet "we did not feel sufficient confidence in it (*i.e.*, a 'scheme on these lines') to make it the subject of a recommendation"! (para. 216, exclamation mark ours). The final paragraph (217) in this section appears to the writer to be the result of another attempt to sit on all stools at once. The Report suggests that the best solution is the skilled summarising of reports by the Chairman as permitted by the existing Rules. Improvement in present practices can be achieved best by administrative guidance (rather than formal regulation), and more training for magistrates (and reporting agents too one would have thought). These should be reminded that while relevant information is not to be withheld "great care is to be exercised" over "confidential matter." To facilitate this, it is suggested, there might be a separate section of the Report appropriately marked and with reasons stated why particular items should *not be disclosed*,⁸ or should be disclosed only with circumspection. (This seems to be where we came in. If the confidential items are relevant they must be disclosed. If they are not relevant why are they included at all?)

In considering appointments to the juvenile court panels and the appointment of chairmen the Committee finds itself in general agreement with the view expressed by the Committee on Young Offenders in 1927, and the Royal Commission on Justices of the Peace in 1948. The justices should be lay, young and willing to train and the present system of appointment should be continued. Stipendiaries serving in juvenile courts should also be adequately trained. It is apparently not usual at present for magistrates' courts committees, which are required by statute to draw up and administer training schemes for the justices in their area, to provide schemes of specialised training for the juvenile panel. It is hoped that they will do this in future and that magistrates newly elected to the juvenile panel will not adjudicate before having completed the training course. The Report does not mention the great difficulty in some areas of finding suitable young men, willing and able to give the time required to serve on the juvenile panel. A much stiffer attitude about training might certainly help to deter some of the less suitable older men who occasionally seem to get elected to the panel with little obvious interest and certainly no enthusiasm, but more in the spirit of one "getting experience" in public life and adding to the record, so to speak.

There has been a strong common trend in all recent Reports including that of the Ingleby Committee in regard to the use of detention, remand

⁸ Italics ours.

and attendance centres, the extension of after-care and the reorganisation of sentencing policy in relation to young offenders, and this has been reflected in the discussions on the Criminal Justice Bill. The recommendations are well known and it seems likely that many of them will be embodied in the Act.

The Committee recommend that the administrative responsibility for the approved schools should remain where it is, *i.e.*, with the Home Office, and this will please the staffs. Many good reasons are given for this decision, but the Committee give little sign of any awareness of the peculiarly serious problems of the senior schools and of their isolation from other educational institutions.

The continual references in the Report to "children" seem less realistic in reference to young men and women of sixteen, seventeen and eighteen, more mature physically and much less easily disciplined than their counterparts of six or seven years ago. "Staff are encouraged to attend courses in the teaching of educationally subnormal children . . . to help further with the high proportion of backward children sent to approved schools" (para. 455). But there is no mention of the fact that the senior "schools" which share in this high proportion are not subject to inspection by either the Ministry of Education or the local education authority. The school may *invite* inspection, but is unlikely to be successful since both of these bodies are finding it more than enough to cope with their statutory duties. The Children's Department of the Home Office have their own inspectors, but these are not, apparently, education specialists. As a result the teaching of backward senior boys in some of the schools is very inadequate and little or no progress seems to be made in the short time allotted in each day. They are professionally isolated and there are no regular channels for bringing the teachers into contact with the excellent work which is being done at residential special schools for educationally subnormal boys in the fifteen to sixteen age groups. Another result of this isolation from normal provision in the sphere of further education and training is sometimes seen in the inadequacy of the arrangements for vocational training whereby a boy within a few weeks of going home on licence and into regular full-time work may still be spending only three or four hours a day on such work at the school.

One would like to see a breakdown of the statement (para. 460) that "forty-nine out of the seventy-eight training schools for boys have psychiatrists who visit for regular sessions (*varying from four a week to one a month*)."⁸ To a manager of a senior school rated as giving "psychiatric oversight" without a visiting psychiatrist the thought of these forty-nine schools served by real live psychiatrists is surprising and encouraging, whatever such service actually involves.

The Committee were told that the existing detention centres were fully used by the courts and that "vacancies were not always available." To

courts which are succeeding in obtaining vacancies at the rate of about one a year this will certainly rank as a masterpiece of understatement! It would seem that someone has certainly been pulling his punches here.

On the subject of detention it is most unfortunate that there is no recommendation as to after-care following detention in a remand home—presumably because the maximum period of detention is one month only. This does not seem a very good reason in itself. Up to the time of the decision of the Court of Criminal Appeal in *R. v. Evans* (1958) it was common practice where there were two offences to provide after-care by putting the boy on probation at the same time. There seems to be no good reason why provision for statutory after-care for, say, up to six months following detention in a remand home should not be made. This would be approved in principle by both probation officers and superintendents.

One wonders whether the Committee were able to gain any real familiarity with the problems of approved schools and detention centres by visiting them for long enough at a time. There is, for instance, as Mrs. Howard points out, no discussion at all of the most controversial aspect of the detention centres, namely the régime itself.

The Report has a mild and rather detached tone and seems to have aroused unexpectedly little interest so far even amongst people who are professionally connected with the field of study. Although we have, in this article, confined ourselves mainly to criticism it must be said that the Committee has, on the whole, done a remarkably fine job of tidying up. The fate of its major recommendations—on raising the age of criminal responsibility, on the substitution of protection and discipline for care and protection, on the use of penal methods in dealing with non-offenders, on moving further away from criminal jurisdiction in dealing with offenders, and on the reservation of prosecuting rights to official bodies—remains doubtful. But, whatever happens eventually to its few more bold recommendations, the effect of the numerous small amendments suggested will be lasting, cumulative and worth while.

REPORT OF THE INTERDEPARTMENTAL COMMITTEE ON THE BUSINESS OF THE CRIMINAL COURTS

*(The Streatfeild Committee) **

J. E. HALL WILLIAMS

THE Streatfeild Committee were called upon to review two main subjects, viz., the present arrangements in England and Wales (a) for bringing to trial persons charged with criminal offences, and (b) for providing the courts with

* Cmnd. 1289, February 1961.

the information necessary to enable them to select the most appropriate treatment of offenders. They were asked to consider "whether, having regard to the desirability of ensuring that cases are brought before the courts and disposed of expeditiously, any changes are required in these arrangements or in those for the dispatch of business by the courts." These terms of reference were construed as applying mainly to the work of the superior criminal courts, viz., courts of assize and quarter sessions.

The Committee of nine persons was presided over by Mr. Justice Streatfeild, and included among its members three whose names will no doubt be familiar to British criminologists: Dr. T. C. N. Gibbens, Professor W. J. H. Sprott, and the Baroness Wootton of Abinger. Appointed in June 1958, the Committee held fifty meetings and considered over a hundred memoranda of evidence. Their Report runs to 143 pages, which is only slightly shorter than the 179 pages of the Ingleby Report. In many ways, this Report is no less important than the other to the development of a sound system of criminal justice in England and Wales. While the Streatfeild Committee was precluded by its terms of reference from reviewing the actual method of trial in the higher courts and in the magistrates' courts, many of its recommendations concerning the arrangements for trial and sentence of offenders affect the system just as fundamentally as do the recommendations of the Ingleby Committee in their own sphere.

The Reorganisation of the Criminal Courts

On the subject of the reorganisation of the superior criminal courts in order to ensure that cases are disposed of expeditiously, the Report is somewhat circumspect, for while it presents a dispassionate survey of the problem and investigates carefully the reasons for the delays and congestion which occur in the courts, at the same time it carefully avoids espousing any very dramatic or thorough-going solution. It is admitted that the machinery of the superior courts is creaking under the strain which is being placed upon it, and is in many cases turning too slowly, but no new machinery is to be installed; instead the present machinery is to be oiled and overhauled in the hope that in this way it may be able to cope more effectively with the work. A slight redistribution of the allocation of cases between assizes and quarter sessions is recommended, and a major redistribution between assizes and quarter sessions on the one hand and magistrates' courts on the other hand. This latter is considered feasible in view of the increased efficiency of justices in petty sessions in modern times.

The main aim in this section of the Report is to reduce the very serious delays which have been taking place pending trial in the superior courts. The Home Office Research Unit's excellent report, *Time Spent Awaiting Trial*, had shown exactly what the position was; in as many as 5,000 cases a year, or one quarter of the total, the delay between the end of committal

proceedings and the trial itself exceeded eight weeks. The Committee thought this waiting time should be kept to the barest minimum, and they accepted an eight-week period of delay as the desirable target, and framed their recommendations accordingly.

There is no need to recapitulate in detail the many recommendations, but the following comments and criticisms are offered in the hope that some of them may be found constructive:

1. It is not altogether clear why it should be regarded as necessary to keep the offences of burglary, and housebreaking where a dwelling-house is involved, within the exclusive jurisdiction of the higher courts. One would have thought that these offences might have been made triable in the magistrates' courts as well as the other breaking offences, and that the powers of magistrates to send a case up to quarter sessions for sentence would have been a sufficient safeguard against serious cases. Some research on breaking and entering cases which we have been engaged on at the London School of Economics seems to suggest that there is no great difference between the treatment by the courts of breaking and entering dwelling-houses and other kinds of building, in relation to the choice of whether the offender is sent to prison or otherwise dealt with, but there may be, and probably are, differences in the length of sentence which is likely to be imposed in the event of prison being the choice. The Committee give as their reason for retaining the exclusive jurisdiction of the higher courts over breaking and entering dwelling-houses, that where a dwelling-house is broken into or entered, the inhabitant is put in fear either directly by the breaking or, if he is not then in the house, by the possibility of repetition. This apprehension may also be shared in the neighbourhood. One can appreciate that this is a very real consideration, but is it really sufficient to justify keeping such cases outside the competence of magistrates' courts?

2. Although the Committee recommends that large portions of new work be assigned to the magistrates' courts, there seems to be insufficient appreciation of the fact that the magistrates' courts are themselves working under heavy pressure, and might well find the accretion of many serious and sometimes difficult cases a considerable embarrassment. The Report recognises rather faintly that "there is occasionally delay in arranging for summary offences to be heard," but how can one estimate the likely consequences on the magistrates' courts of the implementation of these proposals? It is estimated that there will be an additional 8,500 cases a year to be heard in the magistrates' courts, but it is thought likely that this burden will be largely offset by the considerable saving of justices' time in taking depositions, and that the total effect will be a substantial measure of relief to magistrates' courts. Let us hope that this estimate of the consequences is correct, otherwise delays will still occur.

3. The statistics produced by the Home Office Research Unit, and accepted

by the Committee, clearly demonstrate the advantage, in terms of less delay, of the so-called continuous courts over the intermittent courts, that is to say, the Central Criminal Court, the London and Middlesex Sessions, and the Crown Courts in Manchester and Liverpool, compare very favourably with the ordinary assize or quarter sessions. "Where a continuously sitting court is set up," we read, "neither the preparation of the defence nor the development of the prosecution nor the organisation of the business of the court makes it necessary for cases to wait as long as they do at assizes or quarter sessions" (para. 30, p. 9). Again, it is said that "only the way in which the other courts are organised prevents them from trying nearly all their cases within eight weeks of committal for trial" (para. 31, p. 10).

From this one would expect that the Committee would recommend changes in court organisation in the direction of more permanent or continuous courts. But the solution propounded by the Committee is not so bold and sweeping. They are content to recommend the reorganisation of the existing courts in terms of the way their sittings are arranged, so as to ensure that more or less continuously sitting courts of the traditional kind are available. In many ways, one may feel this a rather poor second-best. We shall review the recommendations relating to assizes, Crown Courts, and quarter sessions *seriatim*.

A. *Assizes*. The traditional assize system is to remain practically untouched, save for the reorganisation of the itineraries made by the assize judges so as to ensure the more expeditious dispatch of both civil and criminal work, and the introduction of special judge-itineraries, in addition to the ordinary itineraries, to meet the needs of particular areas. The special itineraries will in some cases transcend the present circuit boundaries. A detailed plan is presented, prepared with the help of the Lord Chief Justice, and printed in Appendix C. This solution has been worked out with considerable skill and ingenuity, and on the face of it appears to be fairly satisfactory. It is to be supplemented by the much publicised use of a "flying squad" of three High Court judges who will hold themselves in readiness to sit in the latter half of September at supplementary assizes, wherever there is an accumulation of cases waiting a long time for trial because of the summer recess. Whether these proposals will commend themselves to the judges, court officials, and, last but not least, to the legal profession, remains to be seen. Cutting down the Long Vacation may well be resisted, but something along these lines appears to be absolutely essential if one is to avoid a sixteen-week delay between committal for trial and trial.

B. *The Crown Court system*. This was not regarded as a model to be followed in any future developments, for the Committee thought the system involved certain rather serious disadvantages which outweighed the points in its favour. Among the drawbacks of the system were the dangers of

staleness, becoming prosecution-minded, developing local antipathies, and the social isolation experienced by the full-time criminal judge in provincial towns. Not even minor departures from the South Lancashire model, such as organising a number of Crown Court judges to form a circuit sitting in turn at different Crown Courts, would in the Committee's view remove these dangers, for "the basic concentration on criminal work and judicial isolation would remain." Personal characteristics of the judges would become widely known on each circuit, and there might be accommodation problems and other administrative difficulties.

This wholesale rejection of any version of the system of continuous criminal courts demands further consideration. Suppose we accept the Committee's view of the drawbacks of doing criminal work continuously in the same locality, suppose we accept the view advanced by opponents of the Crown Court system, that it is a fundamental feature of our system that the judges of our superior courts should deal with both criminal and civil work and as a result may be refreshed by the frequent changes from one to the other (p. 41), does it necessarily follow that there is no solution except a modification of the present court structure? In particular, could not some use be made of the county court judges and court premises?

There are at present some 400 county courts manned by some seventy-five county court judges, organised in sixty-three circuits. It is true that many of these judges already sit as chairmen or deputy chairmen of quarter sessions, and do sterling work in that capacity. But is it not possible that their work could be reorganised and their numbers expanded so as to make it a part of their official duty to hold criminal courts at the level of quarter sessions, at least in the busy urban areas? I would increase the number of county court judges and allocate the extra judge-power to the busiest criminal court areas, arranging for the county court judge to do service in the criminal courts on, say, two days a week on average. The courts of quarter sessions in the selected areas would be organised on a circuit basis, and existing recorders and their deputies could all join in manning the courts on the circuit, which would be so arranged as to ensure that there were more or less continuously available courts of higher jurisdiction in criminal cases in that area. At first, this could be done in one area as an experiment, but eventually, if it proved successful, I would expect it to be extended so that in due course all county court judges would regularly sit in criminal courts.

In this way, we should arrive at the logical conclusion which the statistics and the Committee's own reasoning suggest. We should get a more continuous system of criminal courts in busy areas, and eventually throughout the country, staffed by men who do not get stale but who are continually refreshed by experience of both civil and criminal work. One might add that possibly the opportunity to try some criminal cases and sum up to a jury might provide a welcome change for some county court judges from the

monotony of the hum-drum civil litigation to which they are now condemned for a large part of their time. It is also possible that some of the large number of county court buildings could be adapted for use as criminal courts for part of the time, and thus solve the accommodation problem feared by the Streatfeild Committee if any circuit of Crown Court judges were organised.

My proposal derives some support from the discussion by the Committee of the position in London and the Home Counties. Here they see the same dangers inherent in the Crown Court system, for there is a tendency towards full-time salaried appointments. Rather than having an increase in the number of such appointments, the Committee would prefer to see the appointment of supernumerary county court judges in busy metropolitan areas, so that a number of county court judges could, between them, deal with quarter sessions work as part of their normal duties without any sacrifice of county court work. They regard this suggestion as simply putting on a formal basis the existing practice whereby many county court judges serve with distinction as chairmen or deputy chairmen of quarter sessions. If in London and the Home Counties, why not elsewhere? My proposal also derives some support from the comments of Mr. P. Asterley Jones, the distinguished joint-author of Cross and Jones' *Introduction to Criminal Law*, on the Streatfeild Report.¹ Furthermore, Dr. Glanville Williams, in his interesting article "Proposals to Expedite Criminal Trials,"² has observed that, in addition to the remedies he proposes concerning preliminary proceedings, "another expedient for expediting trials would be to fuse assizes and quarter sessions into a proper system of regional criminal courts in virtually permanent session." He considers that this would have other advantages for the administration of criminal justice apart from the speeding up of criminal trials. He refers to previous proposals, which have been made by other writers, for reorganising the courts to provide a unified system of local criminal courts. With regard to the need to provide the courts with better information at the sentencing stage, he concludes that "it seems obvious that the provision of permanent courts is an essential part of any scheme for furnishing the judges with background information obtained after conviction." It will be seen therefore that the above proposal merits serious consideration.

C. *Quarter sessions.* It is recommended by the Report that quarter sessions should become legally continuous courts (to be known as sessions) with power to hold sittings as often as necessary, and to convene a special court where the circumstances require it. They are to be encouraged to make the fullest use of the services of deputy and assistant recorders and deputy chairmen, and to make adequate arrangements for the remuneration of such people. At the instigation of the Lord Chancellor, they are to be urged to work out local

¹ "Prisoners of History—The Streatfeild Report," by P. Asterley Jones (1961) 105 *The Solicitors' Journal* 243.

² [1959] *Crim.L.R.* 82 at p. 95.

arrangements of dates of sittings, so as to ensure that there are no undue delays in trying cases. The Lord Chancellor is to exercise some degree of oversight over these arrangements. The only doubt here is whether it is sufficient to leave this matter to be solved locally, even with a degree of central supervision. Can local jealousies and pride and inertia be sufficiently overcome in this way? Might it not have been better to set up a Commission on the lines of the Local Government Boundary Commission to inquire into the position in each area, and after hearing what people have to say, to make recommendations to the Lord Chancellor? Is it really true to say that "unlike assizes, quarter sessions do not need a detailed, national scheme prescribing the arrangements for each court"?

Information for the Courts in relation to Sentencing

To readers of this Journal, perhaps the most interesting and important part of the Report will be Part B, which deals with the arrangements for providing the courts with the information necessary to enable them to select the most appropriate treatment for offenders. Here again, as with the question of the organisation of the courts, the Committee found that there had been no previous systematic inquiry by any official body in this country.

This section of the Report begins with an attempt to restate the aims of sentencing. The Committee thought it was essential to do this in order to be able to decide what information should be available to the courts at the sentencing stage, and whether the present arrangements were adequate. A most valuable if somewhat speculative exercise, this shows how sentencing has largely ceased to be an operation capable of being performed on a purely "tariff" basis, whereby the sentence was chosen according to certain rather straightforward criteria such as the offender's offence, character and previous convictions, together with a consideration of any aggravating or mitigating circumstances and the overall need to protect society.

Nowadays much more thought has to be given to the individual needs of the offender, and at the same time the range of sentences available from which the courts have to choose is correspondingly increased, all of which means that it is much more difficult to choose the right measure to adopt in any particular case. Sentencers (a new and unfamiliar word coined by the Report to save circumlocution) now have to resolve many competing claims, and the "tariff system" can no longer be relied on to fit all the considerations in the court's mind. The wider range of objectives means that different information is required to enable the courts to carry out their duty. The existing arrangements for supplying the courts with information have developed piecemeal, and there are many cases where the necessary information is either not available or is duplicated in different reports or is not in a suitable form. Probation officers and prison authorities have often hesitated to give a strong lead to the courts, having learned by bitter experience that

this is often unwelcome and leads to a public rebuke. In too many cases there is a deplorable failure of communication between those who are in a position to know the offender and his background and those whose duty it is to prescribe the medicine. Moreover, there are enormous gaps in our knowledge about the treatment of offenders, which need to be filled by more research. The Report makes out a strong case for the courts to be guided by the results of such research, and gives particular support to the development of prediction studies. The results of such research should be communicated to sentencers, along with general information about the available sentences, to be circulated by the Home Office, perhaps in pamphlet form.

In future, a healthy partnership must be developed between those who choose the sentence and those whose duty it is to carry it out or to supervise the offender. The Report makes it quite clear that probation officers and prison authorities should be allowed to give the courts the benefit of their experience by way of making positive recommendations as to the most suitable treatment. It should always be clear that in the last resort the court has the final responsibility for the sentence passed, but the court should make sure it has all the necessary information and guidance available for this purpose.

The courts must also know how to make best use of this guidance. This presupposes some knowledge about the treatment of offenders and some acquaintance with different aspects of the penal system. Visits to penal institutions should be regarded as an important part of the duty of sentencers, especially when first appointed, but the Report is strangely silent on the subject of the training of sentencers. Nothing is said about the need to ensure that legal education contains some opportunity for future lawyers and potential judges to be informed about penological theory and current developments in the treatment of offenders. Nothing is said of the need to train judges and recorders even in a very tentative way upon their appointment as sentencers. It is recognised that reading a factual summary, such as it is hoped the Home Office will prepare and supply to sentencers, is no substitute for visits to penal institutions. One might add that neither the printed word nor visits to institutions are in themselves sufficient, and both need to be supplemented by the exchange of ideas and thoughts in oral discussion with experts, each drawn from their own field. The jungle of the criminal courts will not become a garden overnight, even if the Committee's recommendations are implemented. It will require many years of careful cultivation, and the immediate future is by no means all roses.

The Report goes on to consider the different ways in which information is placed before the courts for the purpose of assisting them at the sentencing stage. We shall consider a few of the more important points: (a) pre-trial inquiries; (b) police antecedents reports; (c) Prison Commissioners' reports; (d) medical reports.

(a) *Pre-trial inquiries*

The Committee seem to prefer pre-trial inquiries to post-conviction inquiries with a view to obtaining the necessary information about the offender. Where the accused person objects to a pre-trial inquiry, of course, his objection must be respected, but in most cases it seems likely that his consent will be forthcoming. The evidence of the I.S.T.D., it is interesting to recall, was on the whole in favour of a move in this direction. Adjournments after conviction to enable investigations to be made will still be necessary in a small number of cases.

The Committee considered the scale on which pre-trial reports should be required, and recommended that "where practicable, a probation officer should prepare a pre-trial report on every defendant (except one charged with murder) who has not been previously convicted of an offence punishable with imprisonment or is not over thirty years old." In the Committee's view, "these two categories contain a substantial proportion of cases where there may be some hope of stopping a criminal career by positive action or where there may be a need for detailed information about background before culpability can be assessed."

Defendants charged with murder are excluded on the ground that the sentence is fixed by law, and even though the outcome of a charge of that crime may well be a verdict of manslaughter, it would be inappropriate for pre-trial inquiries to be made against this eventuality. It is also said that in any event the court will have available in such cases a large amount of material collected by the defence and the prison medical officer. But are these conclusions and assumptions correct? In 1959, according to the Criminal Statistics (England and Wales),³ out of a total of seventy-four persons sent for trial for capital and non-capital murder, forty-two were eventually convicted of one of those crimes. This leaves a substantial number (thirty two) who were otherwise disposed of. In many of these cases the personal or family situation must have been an important part of the whole picture, and one would like to think that a full probation report was available before the court decided what to do with the offender. Of course, it is possible that such reports were obtained by post-conviction adjournments, but can we be sure that this was done? Is it enough to rely on the full dossier prepared by the defence or the prison medical officer?

The Committee recognise that the two categories in relation to which they suggest that pre-trial reports should be made are in fact rather large categories, but they regard their choice of these categories as fully justified by the real needs of the offenders and by experience of some courts in this matter. What does not seem to me to have been fully appreciated is the exact dimensions of the demand they are making of the probation service in calling for so many pre-trial reports. So far as one can discover from the

³ Cmnd. 1100. July 1960.

Criminal Statistics, the second category alone, those under thirty years of age, amounted to 18,317 cases in 1959 convicted at the higher courts, together with perhaps another 1,700 or 1,800 cases where the accused was acquitted or otherwise disposed of; a total in the region of 20,000 cases per annum would therefore require pre-trial reports. I do not know what relation this figure bears to the number of pre-trial reports now prepared for the higher courts. But if category (a), cases not previously convicted, is added as well, the total volume of increased work called for from the probation service looks to me to be pretty substantial. Perhaps it would be wiser to start with the under twenty-one age group, as was proposed in the recent clause moved on the Report Stage of the Criminal Justice Bill by Mr. MacColl.⁴ Even that clause, which was defeated after being seriously criticised by the Attorney-General, only called for such pre-trial reports to be prepared "as far as practicable," repeating a limitation which the Streatfeild Report expressed. If, as the Attorney-General argued, it is "unwise to tackle the problem piecemeal, and . . . particularly unwise to tackle it . . . solely in relation to persons under twenty-one," we shall await with interest the official view of wisdom in this regard. In the meantime it would be interesting to know what the probation service regard as practicable. One should add that probation officers are to be expected in addition to the above-mentioned categories to furnish reports on any other defendant who has recently been in touch with the probation service, whether on probation or for after-care. Moreover, these categories are seen as minimum categories, to which individual courts may well wish to add others. Let it be understood that I welcome wholeheartedly the thinking which inspires these recommendations. What I am not clear about is the degree to which they can be implemented now or in the foreseeable future. The Committee recognise that their recommendations, if implemented, would increase substantially the burden on a service which is already heavily committed, and that in some areas there may well be delay in the full implementation of the proposals due to a shortage of probation officers.

(b) *Police antecedents reports*

It is proposed that copies of these, together with any probation reports, prison commission reports, etc., should be supplied to the clerk of the court at least twenty-four hours before a defendant is due to appear in a superior court. It is the clerk's duty to supply copies to the accused or his legal representative. These reports are kept strictly out of the hands of the jury, who do not learn of their contents until after the finding of guilt, but it is always a source of surprise to some of our overseas visitors to learn that the judge is already supplied with a confidential dossier on the prisoner before the trial takes place. What conclusions can, or should, be drawn from this

⁴ H.C. Debates (5th ser.), Vol. 638, col. 152 *et seq.*

fact it is difficult to say. The probation officer is to have an advance copy of the police antecedents statement, to help him avoid duplication in preparing his own report, but it is recognised that there is bound to be a small area of overlapping.

(c) *Prison Commissioners' reports*

The difficulties experienced by the prison authorities in preparing the various kinds of suitability reports which they are required to prepare, if possible, in relation to borstal training, corrective training, and preventive detention, are acknowledged, and the Report makes certain recommendations designed to facilitate matters. Unnecessary duplication of information contained in the police antecedents statement and any probation report will be avoided by supplying the prison governor with the basic details in the former and an advance copy of the latter, wherever possible. The Committee is in no doubt about the importance of the contribution which the prison authorities can make where the court is considering imposing a sentence of corrective training or borstal training. Only in exceptional circumstances should a court sentence someone to one of these special sentences without receiving any such report. These reports are to contain much more helpful information about the advantages of the use of the special sentence in any particular case compared with the alternatives. If it is a choice of borstal training or a detention centre, as in many cases under the new Criminal Justice Bill, the court should normally either consider the pre-trial report, if such is available from the prison authorities, or obtain a post-conviction report, but where the court is in no doubt which course to take, it should not be obliged to adjourn the case for such a report to be obtained. In other words, remand in custody for a post-conviction report is not to be obligatory wherever there is no pre-trial report from the prison side. This surely must be welcome unless we are prepared to see remands of young persons to prison for inquiries at the post-conviction stage.

On corrective training, the curious myth that it involves something quite different from ordinary imprisonment is perpetuated, and we read that "Borstal is less of an alternative to imprisonment" (p. 106). Substitute "more" for "less" and it might be nearer the truth.

On preventive detention reports, the sheer volume of cases on which the prison authorities have to prepare suitability reports is noted as bearing very little relation to the number actually sentenced to preventive detention. Only about one in ten of those eligible for P.D. are actually sentenced to P.D. Here the remedy suggested by the Committee is to substitute post-conviction reports by the Prison Commissioners for the present pre-trial reports. These would only be ordered where the court was considering a sentence of preventive detention. But, satisfactory as this new arrangement appears to be on the surface, it seems that there will be nothing to prevent courts sentencing

to P.D. without such prison reports where the case is straightforward. All that will be required is a medical report on the offender's physical fitness, which will be obtained before trial. While one could accept that there might be some straightforward detention centre or borstal cases, can one be quite so content with this loophole in the P.D. arrangements?

(d) *Medical reports*

Much of what has been said already about recognising the need for adequate information prior to sentence applies also to the medical information with which the prison medical officers are in a position to supply the courts. The P.M.O. should feel free to express his opinion frankly, and to indicate possible treatment. It is suggested that more use should be made of the power to volunteer reports on cases showing abnormal features. It is recognised that the P.M.O. has wide experience of delinquents, and is in an excellent position to enlarge this department of his activity. Oddly enough, there is no mention that I can discover of the role of the prison psychologist, and the P.M.O. is to continue to be the only person entitled to present a report to the court other than the prison governor. I find this omission to consider the status and work of the prison psychological services rather sad.

Conclusion

In brief, this Report represents an important milestone on the way to a more satisfactory disposition of cases by the higher courts, and a more intelligent marshalling and use of information relevant to the choice of sentence. Its recommendations on the reorganisation of the courts are somewhat conservative, and some of the suggestions relating to information for the courts and how it should be obtained and used will have to be carefully studied. But, in the main, the Report is forward-looking and progressive, and we shall look forward to hearing that its proposals are to be adopted and put into force in the near future.

IS THERE SUCH A THING AS CAPITAL PUNISHMENT?

JOSEPH ZELMANOWITS

THERE can, of course, be no question of capital punishment bringing about in the person upon whom it is inflicted an educative or reformatory or even a deterrent effect, since he will not live to undergo these changes for the sake of which punishments are said to be meted out in modern societies, to benefit alike the offending individual and the community. But it seems to me that the question requires to be raised as to whether the culprit, who is condemned to death, will live long enough even to receive his punishment.

I think he will not. Because, once dead, he can receive punishment no longer; and prior to his death, until the very last moment of his life, the punishment he was ordained to suffer was still before him.

To my mind, three elements must enter into any definition of an act of punishment, however punishment be conceived. One is the means of punishment, that is, the specific pains or deprivations in penal use; another is the person or the institution that puts the penal means into effect; and the third, the person who receives what the law inflicts upon him.

No one is said to have received his punishment until the full extent of the judicially imposed means of punishment has actually been applied. If a person has been judicially sentenced to a deprivation of his freedom for the length of twelve months, and he should be set free after a period of nine months, it will be said that he was awarded a remission of his punishment on account of his good conduct in prison. Should the punishment by any chance still be a corporal one, it will not be deemed to have been duly received until the last stroke with the birch, if that be the instrument used, has been dealt, unless forgiveness is granted regarding a part of the pain that was to be suffered. Any punishment that is to be undergone may bring forth fear in anticipation of the pain, the privations and the humiliation involved in it. But this anticipatory state of mind, however distressing, will never count as sufficient to stand for the punishment itself.

Once the act or the process of punishment has run its course, the transgressor of the law looks back upon it as an experience. And this again is of the essence of the concept of punishment.

If we reflect on what is called capital punishment with these considerations in mind, we shall find that it stands neither the test of a definition of an act of punishment, nor the test of a definition of the concept of punishment. (The latter, incidentally, is not easy to come by in legal writings.) All the stages that lead to the scaffold, however agonising, are steps only on the road towards what is yet to come as the punishment itself. But when life has been extinguished, that is, the means of the death penalty effected, one of the three constituents of an act of punishment is no longer present: the recipient is no longer there. And, of course, he will not be able to look back upon it as on an experience. This unmasking capital punishment as being no punishment in the logical sense of the term. True enough, it disposes thoroughly of the individual it strikes, removing him from the ranks of the living and so doing away, once and for all, with him and the problem he poses. Society may wish to continue the use of the expedient, but it ought to feel in truth bound to find another word and another concept to substitute for that of punishment.

I have found in the literature a piece of writing¹ bearing a title almost

¹ H. Sachs: *Does Capital Punishment Exist?* Riant Chateau, Territet. 1930. (Translated from the German article published in *Die psychoanalytische Bewegung*, Januar-Februar 1930, Jahrgang II, Heft 1.)

identical with that which I had chosen for the present note, which also denies to the death penalty the status of punishment. But Hanns Sachs, the author of the article, which appeared in 1930, rested his argument on the absence in capital punishment of any of the attributes and aims which attach in modern criminological thinking to the idea of punishment. Without submitting the act of punishment to a logical analysis, he declared that in capital punishment it is not death which constitutes the penalty but the fear of death, the infliction of death being only the indispensable means of bringing this fear about. He thought the tenacity with which society adheres to the use of capital punishment due not only to this penal measure giving vent to primitive impulses on society's part, but also to capital punishment serving, as he put it, as a thought-saving device.

"THE HIDE OF THE THUG"

J. E. HALL WILLIAMS

THE desirability of reintroducing corporal punishment was canvassed extensively in a lengthy correspondence in *The Times* newspaper, originating on November 10, 1959, under the title "The Hide of the Thug."¹ In January 1960 *The Times* printed a turn-over article by a Medical Correspondent on the subject of flogging.² In the same month the Home Secretary asked the Advisory Council on the Treatment of Offenders to consider "whether there were grounds for reintroducing any form of corporal punishment as a judicial penalty in respect of any categories of offences and of offenders."

The Report of the Advisory Council was published as a White Paper in November 1960,³ and this strongly reinforced in a most convincing way the previous Report of the Cadogan Committee.⁴ Even the seductive suggestion that the reintroduction should not extend to adults, and should be limited to the birch, was categorically rejected, and shown to be inconsistent with modern penal methods and quite impracticable.

The exponents of corporal punishment remain unconvinced and unpersuaded. From Mr. Cuthbert's Weekly Garden Talk⁵ to the Lord Chief Justice and Sir Thomas Moore, much the same old arguments are still advanced, although nowadays dressed up in a somewhat novel and more circumspect form. We do not desire the reintroduction of the cat, it is said;

¹ Sir Thomas Moore, M.P., initiated the correspondence.

² "Is Flogging a Remedy?" From a Medical Correspondent, *The Times*, January 27, 1960.

³ Report of the Advisory Council on the Treatment of Offenders, *Corporal Punishment*, Cmnd. 1213, November 1960.

⁴ Report of the Departmental Committee on Corporal Punishment, Cmd. 5684.

⁵ *The Times*, November 19, 1960.

we do not desire the courts to use this power frequently; we do not desire to say anything against other methods of punishment.

In Parliament, the Criminal Justice Bill has afforded several opportunities for debates on this subject, and several new clauses have been moved, only to be defeated both in Committee and on the Report stage.⁶ Attempts to introduce clauses permitting corporal punishment at attendance centres and detention centres were abandoned,⁷ and the vote on the Report stage in favour of corporal punishment for young offenders on a second or subsequent conviction mustered only 67 votes against 259 (not counting the two tellers on either side).⁸ In the House of Lords, the second reading debate⁹ afforded Lord Parker, the Lord Chief Justice, an opportunity to reiterate the demand he made a year ago when addressing the annual conference of the National Association of Probation Officers at Margate.¹⁰ Lord Ailwyn condemned our "cissy" treatment of young thugs and hooligans as utterly wrong.

Perhaps the best comment on the situation would be to quote a passage from the excellent speech of Lord James of Rusholme in the same debate.¹¹ Referring to the outcry for corporal punishment, he said:

"That subject has been discussed so much that nothing significant remains to say. I think it is unfortunate that so much of the discussion has been purely sentimental; and it is necessary, I believe, to try to get sentiment out of one's mind in discussing this. Of course, I mean it has been sentimental on the part of those who defend corporal punishment in the sense that the dearth of hard evidence for its effectiveness means, really, that nothing but sentiment remains. Yet how much we need hard evidence to make us believe in it!

"After all, it is intrinsically improbable that a young man, who has probably been savagely beaten on many occasions throughout his life, as a very large number of those appearing before the courts have been, should be improved by more beating. It is intrinsically improbable that our young people are so much worse than young Frenchmen or Swedes or Russians that ours, alone, should be the only penal system, pretty well, in the civilised world that needs this particular sanction. It may be that those improbabilities can be removed, but we shall need some pretty hard evidence to remove them. But all the hard evidence that exists on this difficult problem shows that, in fact, juvenile corporal punishment is not a deterrent."

⁶ House of Commons, Second Reading debate, November 17, 1960, H.C., Parl. Deb. (5th ser.), Vol. 630, col. 562.

Standing Committee B, Criminal Justice Bill, Eleventh Sitting, February 9, 1961, col. 510 *et seq.* Twelfth Sitting, February 14, 1961.

⁷ Standing Committee B, Criminal Justice Bill, Fifteenth Sitting, February 23, 1961, col. 732. Sixteenth Sitting, February 28, 1961.

⁸ H.C. Parl. Deb. (5th ser.) Vol. 638, col. 57, April 11, 1961.

⁹ H.L. Parl. Deb. Vol. 230, col. 1054 *et seq.*, May 1, 1961.

¹⁰ *The Times* and *The Guardian*, April 25, 1960.

¹¹ *Loc. cit.*, col. 1130.

BOOKS AND PERIODICALS

CRITICAL NOTICES

ELSEVIER'S DICTIONARY OF CRIMINAL SCIENCE. In eight languages . . . compiled and arranged on an English alphabetical base by JOHANN ANTON ADLER. [Amsterdam: Elsevier Publishing Company. 1960. xv + 1460 pp. 15 guineas.]

THIS work is a unique production. Mr. Adler was from 1922 to 1938 the scientific director of the criminalistic laboratory of the Austrian federal police and was attached to the service of the Brazilian federal police during World War II. Later, until 1954, he was counsellor to the department of police in the Netherlands Ministry of Justice and head of the Interpol office at The Hague. Since then he has been engaged in the preparation of the Dictionary under review. The labour involved in compiling the list of 10,930 English and American words, terms or phrases that form the basic list of the book and in finding their equivalents in French, Italian, Spanish, Portuguese, Dutch, Swedish and German must have been appalling, and one cannot but feel both admiration and gratitude for Mr. Adler's devotion to that task.

The plan of the work is simple. English and American words, alphabetically arranged and consecutively numbered, are given in one column, and in seven parallel columns one finds their translation into the languages already mentioned. There are separate indices at the end of the book for the words in each of these languages, so that a person who is working on a Portuguese text, for instance, can, by reference to the Portuguese index, locate the identifying number of a given word and then, by consulting the dictionary, discover the translation of that word into one of the other languages.

It should be stressed that we are not dealing with a dictionary properly speaking, but with word lists, for no word is defined. This policy was probably imposed by necessity, for otherwise the book would have become much larger and costlier. One consequence is that the translations have sometimes suffered. It is difficult to know whether the deficiencies so produced should be blamed on Mr. Adler or on others, for, although it appears that he made the original translations, responsible persons in the various countries represented were consulted, read the final manuscript, and corrected or approved the translations.

The scope of the Dictionary is indicated in the preface, where the term "criminal science" is said to be used "in its widest sense, covering criminal law, criminology and criminalistics, as well as their auxiliary sciences." One

might, therefore, expect that all the various branches of knowledge mentioned would be represented both adequately and in a well-balanced manner. Furthermore, since the basic word list is made up of words common to both the English and the American idioms as well as of words having a specialised meaning in one of these languages, one might suppose that both these language areas would have been explored equally well. Neither of these suppositions is completely valid.

There can be no doubt that the compiler's professional experience has led him to give undue space to words used in the field of police science. No fewer than sixty-four words or word combinations begin with "police," sixty with "photo-," fifty-eight with "paper," etc. Some eighty words refer to facial features, and nearly fifty words are devoted to "handwriting" and "fingerprints." Close to forty words begin with "sodium" or "potassium," and all the vitamins are individually listed. The "International Association of Chiefs of Police" and the "International Criminal Police Association" are listed but there is no mention of the International Society of Criminology, the International Association of Penal Law, the International Penal and Penitentiary Foundation, the International Penal and Penitentiary Commission, or the International Society of Social Defence.

Most of the words derived from the American language area prove to be merely spelling variants or else criminal slang terms. Instances occur when the American synonym of a British word is missing, or a word which this reviewer has never heard, is attributed to the United States. For instance, "press-reviser" is given but not proof-reader. As for "deathsmen," which is credited to American law and supposed to mean executioner, I find that Webster's dictionary credits it to Shakespeare and marks it archaic. On the other hand, terms like "delinquency area," "differential association," "deviant conduct," "chain gang," "felony murder," "lease system (of prison labour)," "piece-price system," "state use system," "prisonization," "public defender," "ordinance," "prison warden," and many others are not found in the Dictionary.

At times, one wonders why some phrases or terms were included. Is there a special need to know the meaning in eight languages of "latent (non-detected) higher class offenders"? Why list "crime, a likely place for"? Some words appear to have been invented because the compiler needed an English word for some foreign term he felt should be included. How can one otherwise explain the word "professiology" which in German is properly rendered as "Berufskunde"?

To comment on the translations would require an intimate knowledge of the various languages involved, a knowledge which this reviewer does not profess to have. Some of the errors are, however, glaring. For instance, "adulterous intercourse" is rendered in Swedish as "intercourse between grown-ups"; "act of indemnity" is generally translated as "act of amnesty";

"broken home" becomes "disorganized home" in Spanish and "unsatisfactory home" in Swedish; "burglary," in all languages, "theft, with breaking and entering"; "death warrant" becomes "death sentence" in Swedish; "follow-up studies" is considered the equivalent, in all languages but Dutch, of "behaviour of released prisoners"; "pardon, absolute" becomes "complete amnesty" in Swedish and German; "pre-delinquency" appears as "time before the crime" in Dutch, Swedish and German; "probation" changes into "conditional sentence" in Swedish and German; "statutory rape," in all languages, becomes "forcible rape of a minor"; "commutation of sentence" turns into "change of punishment," etc. "To break one's ticket of leave" is hardly synonymous with "recidivate," the translation given in Italian, Spanish, Swedish and German. Although the translations of the word "felony" appear to be reasonable, the same cannot be said of the words "felon" and "felonious." And, why give "prison" as the Spanish rendering of "calaboose," when the word was derived from the perfectly good Spanish word "calabozo"? (The companion word "hoosegow," from the Spanish "juzgado," is not mentioned.) As for "underworld," it would appear that no language possesses a single adequate word, except possibly the Italian, although I am not sure that "bassifondi" is a better word than "mafia," which is not mentioned anywhere. In French it is rendered by "apaches, gangsters, members of a criminal gang," in Spanish and Portuguese as "bandits, gangsters," and in Dutch, Swedish and German as "criminals, gangsters."

Some translations are evidently literal, with the result that the true meaning of the original is completely hidden. This is true, for instance, of the term "criminal history." The term "on parole" is turned into "on word of honour" in Dutch and German.

Anyone who has sweated over translations knows the importance of the *mot juste* that will, as nearly as possible, convey to a reader the exact meaning of a foreign word. Where liberty may be taken, as in a literary rendering, this problem may not be as perplexing as it is in a technical translation, where accuracy is more important than style. It is therefore distressing to find blemishes of the kind mentioned in a scientific dictionary. However, in justice to Mr. Adler, it should be said that the vast majority of the more than 75,000 translations that I have checked, by a sampling process, have been accurate. It would hardly be fair to expect that in a work of this amplitude and complexity one should find no errors or omissions. That Mr. Adler has succeeded so well, on the whole, is greatly to his credit. The book should, therefore, be of great value to anyone who labours in the multilingual field of "criminal science."

Thorsten Sellin

SOME POTENTIALITIES OF EXPERIMENTAL JURISPRUDENCE AS A NEW BRANCH OF SOCIAL SCIENCE. By FREDERICK K. BEUTEL. [University of Nebraska Press, Lincoln. 1957. xvi and 440 pp. \$6.]*

AN interesting and original book, though perhaps not altogether as original as the author is inclined to think. His problem is to examine whether scientific, especially experimental, methods can profitably be used in jurisprudence and in particular in the field of legislation. This is indeed a big problem. In spite of the efforts of a comparatively small number of brilliant lawyer-sociologists, of whom only Roscoe Pound, Eugen Ehrlich, and Franz von Liszt may here be mentioned, legal science has remained too abstract, rigid, theoretical and divorced from the essential facts and the practical problems created by them. Professor Beutel questions the view, now attacked from various quarters, that the methods of the natural sciences cannot be employed in the field of the social sciences and he tries to show that the law, as one of the principal means of social control, can be used to vary social facts and thereby to establish the possibility of controlled social experimentation. He is aware, though perhaps not as fully as one might have wished, of the difficulties, especially of the moral objections, to such experimental methods of legal change. Law, or at least one form of it, is, he maintains, simply a set of man-made rules which can be changed whenever required to meet the dictates of scientific discoveries. It is the task of experimental jurisprudence to study the nature of the social problems with which a specific statute is expected to deal and the effect on society of that law. If the law is found to be ineffective a new law has to be tried out. All this is hardly new, but the author deals with the various steps in this process of legal experimentation in a more comprehensive and systematic way than most of his predecessors have done. He is assisted by the existence, side by side, in the United States of a large number of legislations, some of them possessing statutes treating identical social problems in similar social and economic settings but in entirely different ways. This makes it easier to observe the effects of such heterogeneous legislations and can often serve as a substitute for a real, controlled, experiment. "Jurists can reap many of the benefits of controlled experiments by simply comparing results of studies in existing societies without the necessity of making any changes in the law" (p. 26). What the author apparently has in mind without actually saying so is the so-called "natural" or *ex post facto* experiment in the sense of Mill, Chapin and Greenwood.

From the stage of mere observation, however, we pass inevitably on to that of new lawmaking if the observed effects of existing legislation seem disappointing, and here the author has to contend with the problem of values to which, it seems to the present reviewer, in spite of its detailed treatment

* Review copy received 1959.

he has not been able to do full justice. Moreover, his application of the word "experimental" is sometimes unduly wide and the latter is often used as a synonym for "scientific." Traffic control is a field, he thinks, where the methods of experimental jurisprudence have made startling advances (p. 91), but apparently he regards it as proof of the use of such methods if the lawmaking power in this field is delegated to technical experts. In the sphere of crime control (pp. 92 *et seq.*) he refers to fingerprinting and similar techniques of identification, but they, too, are not necessarily experimental in the true sense of the word. The weaknesses which he rightly exposes are not all due to lack of experimentation. When, *e.g.*, he writes with reference to the working techniques of the American Law Institute "there was no attempt to get the social facts and no use of the technique of any other science" this may be perfectly true, but the collection of social facts is not necessarily done on the lines of experimental methods. This comes out very clearly in the interesting account on the work of the Johns Hopkins Institute of Law: the collection of judicial statistics and proposals for law reform are not experiments in the technical sense. Only in one case, the comparative study of divorce in Maryland and Ohio, does that Institute seem to have come anywhere near to the idea of experimental jurisprudence. Otherwise, as the author remarks, with some exaggeration, it remained at the stage where botany would have remained had its efforts been devoted merely to counting leaves on trees. As an example of how legal research should be done he quotes the famous study of the jury system by the University of Chicago Law School. Some of the researches on the problem of traffic control described in Chapter VI, although not strictly controlled experiments, also at least approach the idea. If, however, the author claims (p. 136) that no considerations of "value" are here involved all our previous doubts on that score are again aroused. "The Traffic lawmaker really has only to consider the chances that the proposed new rule of law will meet the demands of the situation where the factors are known or fairly predictable. The determination to change the rule becomes one of relevance rather than 'value.'" But what are the "demands of the situation" and what is relevant, and relevant to what? If, *e.g.*, the choice is between facilitating faster traffic or reducing fatal accidents and if one cannot have it both ways will this not—much as the author dislikes it—become a question of "values"?

As the tree-planting example shows, the author understands quite well that an experiment requires control and comparison (p. 179), but his way of quoting side by side the Cambridge-Somerville study (referred to as "Powers and White"), which is experimental, and the Gluecks' "Unravelling," which is not, again seems to be a sign of confusion.

Of considerable interest is Part II, which contains some very minute accounts of the application of experimental methods to specific legal problems. Here the author realises that for the application to really big

socio-legal problems the existing techniques are not yet sufficiently refined and that recourse must therefore be had to smaller and simpler problems. Consequently, after a few small pilot studies on various subjects, a three-year study was undertaken of the working of the Nebraska penal statutes dealing with the issuing of bad cheques. This latter study is described at very great detail, and it shows how extremely complicated even apparently smaller problems of this kind can be if examined under the microscope. The research workers had the task to discover (a) the extent to which bad cheques interfered with business and caused damage to it, and (b) the effectiveness of the penal statutes concerned, and (c) to suggest possible changes in the law. The innumerable difficulties encountered during the fact-finding stage are of the kind only too familiar to research workers. Some of the material collected was then compared with information from one of the neighbouring states, Colorado, with similar physical and economic conditions where the issuing of bad cheques was, however, only a misdemeanour and not a felony as in Nebraska. The preconditions for a natural experiment were therefore present. Some of the findings are of general interest. The total losses to the community caused by bad cheques, *e.g.*, were comparatively insignificant, but over one-fourth of the inmate population of the state penal institutions were there for this crime and the cost of their maintenance plus overhead expenses greatly exceeded the financial losses caused by the crime itself. A comparison with a number of counties and cities in Colorado showed that the latter state, with its more lenient legislation and penalties, had suffered even smaller losses. Admittedly, such comparisons will always be crude, and it is hazardous to explain the difference in business losses exclusively by referring to the difference in the law. It will also be doubted by some whether the prevention of financial loss is the only justification for the existence of such penal statutes.

With this proviso, we can agree with the author's conclusions and his recommendations for legislative reforms, as for example: "In a changing society, inflexibility is likely to be the death of a law" or "severe punishment prescribed by the law does not seem to deter crime any more than milder penalties." The book ends with a number of practical recommendations for the American legislator, some of which are not without general interest. The author realises that his studies have so far given only tentative and incomplete results, but they show at least the way towards improved and more scientific lawmaking. It goes without saying that criminological research should play an important part in helping to collect the factual material on which such lawmaking should be founded. What the author calls experimental jurisprudence is in fact to a large extent nothing but applied criminology and penology.

H. M.

REVIEWS

INTRODUCTION AU DROIT CRIMINEL DE L'ANGLETERRE. LES GRANDS SYSTÈMES DE DROIT PÉNAL CONTEMPORAINS, I. Edited by MARC ANCEL and L. RADZINOWICZ. Institut de Droit Comparé de l'Université de Paris. Les Editions de l'Épargne. [Paris. 1959. 306 pp.]

THE comparative study of law has made considerable progress within the past ten or twenty years. This applies not only to the amount of comparative material which has been made available, but also to an improvement of the methods used in research and presentation. One of the new objects is what could be called the bilateral approach, the attempt to describe and interpret legal institutions of one country to jurists trained in the legal tradition of another country. The need for such presentation to a specific audience is felt with particular strength in the relation between common-law and civil-law jurists, and in that between English and Continental lawyers. It is very fortunate that M. Marc Ancel, judge at the *cour de cassation* and an eminent authority in comparative law, and Professor Radzinowicz joined hands to enlist eleven English experts to write on English criminal law for French readers. Their ten papers cover the whole ground in a comprehensive and systematic way. Dr. Rupert Cross and Miss Ely deal with what a Continental lawyer would call the "General Part" of (substantive) criminal law, based to a certain extent on Cross-Jones' well-known textbook. The "Special Part," i.e., definitions and descriptions of particular legal offences, is discussed in four chapters written by Mr. Holland, Mr. Prevezer, Mr. Treitel and Dr. Edwards. It needs perhaps an even greater effort to explain the characteristic features of English criminal procedure to Continental lawyers. Dr. Glanville Williams, whose *Proof of Guilt*, 1955, has already proved most instructive to foreign readers, has again contributed a chapter concentrating on the essential elements of English criminal procedure. English readers will be glad to find a further contribution on the Court of Criminal Appeal by which Professor Seaborne Davies supplements his recent article in the *Journal of the Society of Public Teachers of Law*. The scope of the book transcends the mere legal aspect of criminal law. Mr. Lodge presents an illuminating analysis of English Criminal Statistics which reveals certain characteristic trends up to 1955. It would be gratifying if the *Revue de Science Criminelle* could publish such English investigations at not too distant intervals. Sir Lionel Fox concludes the volume by a comprehensive survey of the English prison system. Throughout, the contributions are not confined to a mere description of the state of the law at a given date, but rather reveal prevailing tendencies in recent developments in the legal and criminological field. The authors are by no means uncritical. Mr. Prevezer, whose contribution was written before the Homicide Act of 1957 was enacted, discusses the intricacies of the traditional law of murder. Professor Lawson contributes

valuable arguments to the controversial question of a possible codification of English law. He is not in favour of comprehensive codes with the purpose of completeness, but would like to see further consolidation and partial codification of the system of particular offences, leaving the "General Part" to the more flexible form of case law. Professor Radzinowicz, in a well documented Introduction, discusses the relationship between English and French criminal law and follows up, throughout history, the way in which the administration of criminal justice in England has been reflected in French literature. In one of the chapters, at p. 201, by an apparent mistake, the chairmanship of the Prison Commission has been attributed to the wrong person.

Max Grünhut

THE CRUSADE AGAINST CAPITAL PUNISHMENT. By ELIZABETH O. TUTTLE.
[London: Stevens & Sons, Ltd. 1961. xii + 177 pp. 30s.]

THIS book is probably more suitable for review in a political journal than in one devoted to criminology, though it is a study of the difficulties of attempting reform in the treatment of criminals by the process of Acts of Parliament. Some quite startling changes in the treatment of offenders have of course been made without any Act of Parliament, and it was suggested at one stage of the debates on the Homicide Act that the death penalty might itself disappear through abrogation here, as it has done in many other countries.

Unfortunately Mrs. Tuttle, who produced this study, has apparently based it almost entirely on reading such literature as she was able to see in America, and on the complete parliamentary debates on capital punishment in 1929, 1938, 1948 and subsequently. She has not been aware of the background work which leads to parliamentary decisions. Mrs. Tuttle seems to think that M.P.s initiate all the things that M.P.s do. For example, she attributes to three M.P.s the promotion of a memorial to all Members canvassing support for abolition; but the memorial was promoted by the National Council for the Abolition of the Death Penalty whose first and important task was to find the three representative Members (one from each party) to sign the memorial. As any student of British politics will know, what happens in the House is only the top of the iceberg. Mrs. Tuttle rightly pays tribute to Roy Calvert and understands well the basis he set for the abolitionist campaign—a basis of unemotional argument and irrefutable evidence—but a book which refers to John Paton as the author of a pamphlet or two and the maker of certain speeches, mentions Margery Fry as the writer of a letter to *The Times* and as a witness before the Select Committee, refers to Victor Gollancz only as the author of a pamphlet and does not mention Theodora Calvert at all, cannot be regarded as a serious, or complete, study of the crusade against capital punishment. Parliamentary debates are the public

and ultimate manifestation of the real crusading which has been conducted for years in meetings large and small, in pamphlets and bulletins (Mrs. Tuttle seems never to have seen the Bulletins of the National Council for the Abolition of the Death Penalty, which are themselves a microcosm of the history of the campaign) and in Press correspondence in local and national papers.

The National Council had been trying for fifteen years to get a letter in *The Times* before it succeeded and the significance of the correspondence referred to by Mrs. Tuttle is that it appeared at all, as an indication of the changing attitude of *The Times*, which, on the eve of the crucial parliamentary debate in April 1948 came out in support of the idea of giving abolition a trial. As *The Times* was moving, so the country was moving; and Parliament reflected this.

In her reporting of the debates on the Silverman Bill and the Homicide Act, Mrs. Tuttle shows her understanding of the lengths to which political expediency can go in the way of compromise and contradiction, the Homicide Act in particular embodying in legislation proposals which had been virtually laughed out of both Houses in 1948 and totally rejected by the Royal Commission. (Churchill's speech in the 1948 debate, to which Mrs. Tuttle briefly refers, was a brilliantly witty but final devastation of all the compromise proposals and remains today as a complete indictment of the Homicide Act.) But Mrs. Tuttle sees no political expediency in the attitude of the Labour Government in 1948, when it opposed abolition. The battles within the Government remain secret history but it is strongly believed that some of the leaders of the party and of the Government were influenced by the fact that a murder following abolition might lose them a by-election. An attempt was certainly made to apply the whip to members of the Government even though the House was to have its free vote, but Cripps, Bevan and others would not support the death penalty and a significant feature of the division of April 14, 1948, with its majority of twenty-three for abolition, was the abstention of many members of the Government and the noticeable public abstention (by sitting on the Government benches throughout the division) of several members, including Kenneth Younger, Edith Summerskill, David Hardman and others. Those who know the history of this period will not share Mrs. Tuttle's conclusion that the abolitionists look forward to the day when a Labour Government is again in power.

The surface history is well recorded and Mrs. Tuttle has done a good job with the limited material she had available, which makes it the more regrettable that she never knew all the matters involved. The book is valuable only as part of a much more comprehensive story which remains to be told for the benefit of all those with advanced ideas in any social field. It is not enough to prove the case or to court public opinion; one has to have political subtlety as well, or else just get on with the reforms and the new

ideas in the field immediately available and hope that the results will speak for themselves.

Mr. Hall Williams has added to this work a most valuable criticism of the operation of the Homicide Act up to the end of 1960.

Frank Dawtry

JUVENILE DELINQUENCY IN POST-WAR EUROPE. European Committee on Crime Problems. Council of Europe. [Strasbourg, 1960. 74 pp.]

WITHIN the last decade successful efforts have been made, under the auspices of the United Nations and the International Society of Criminology, to discuss topical questions of crime and punishment on a world-wide basis. Such global exchange of views and experience, often from societies with widely different civilisations, proves most stimulating. It has helped us to see criminological problems in their proper perspective. There is, however, at the same time, a demand for more intensive regional studies on problems shared by neighbouring countries which have much in common in social structure and traditional standards. It is therefore to be welcomed that the Council of Europe has recently set up a European Committee on Crime Problems which published as its first venture a study on juvenile delinquency in post-war Europe. This Report provides further evidence of a situation which has become a familiar topic of recent international discussions. It reveals the picture of increasing delinquency among juveniles and adolescents in countries of growing prosperity and rising standards of living. This is not a rule without exception. Denmark and Belgium report of no such increase in juvenile delinquency, nor are high-delinquency areas without pockets of slums and poverty where the tragic contrast with contemporary standards is even more marked than in the past. In summing up the situation the question is rightly asked whether "old and unsolved problems, overlaid by misery, are thrown into bolder relief once that misery is alleviated" (p. 15). One of the possible underlying factors is the acceleration of the onset of puberty, more and more preceding the age of character formation and social maturity, and again emphasising the contrast with certain types of socially maladjusted persons with retarded puberty. As to typical forms of juvenile delinquency, attention is drawn to "joyriding," *i.e.*, taking and driving other people's motor-cars, to public disturbances with surprisingly similar features in different countries, and to the perennial problem of gang and group activities. In the section on treatment, rightly characterised as the "*point de départ* of modern criminology," English readers will be particularly interested in the Swedish plans for a short-term institutional treatment as the initial stage of probation, something designed to differ both from the German youth arrest and the alleged "short, sharp shock" by which English detention centres have been labelled.

This first Report was based on answers to a questionnaire supplemented by resort to current literature. It is in the nature of this sort of research that it helps to recognise the problems which confront criminal policy today. This first step should be followed by a more direct approach to the questions brought to light by this brief survey. Is it too much to expect that the European Committee will send its own team of research workers on circuit to study on the spot some of the burning topics of our day?

Max Grünhut

TRENDS IN JUVENILE DELINQUENCY. By T. C. N. GIBBENS. [Geneva: World Health Organisation. 1961. 56 pp. 3s. 6d.]

THIS is a succinct and discriminating survey of the field of juvenile delinquency. It touches on every aspect of the multi-disciplined approach to the subject, from diagnosis to treatment and prevention. Special attention is paid to "new" trends in delinquency. It is specially recommended to those experts who are disinclined to take into account the conclusions and implications of disciplines other than their own.

E. G.

RELUCTANT REBELS. By HOWARD JONES. [London: Tavistock Publications. 1961. 234 pp. 30s.]

THE name of Howard Jones is well known to readers of the B.J.C. as an exponent of group techniques in various spheres. In this book he discusses the group approach to "the therapy of the dis-social" (to use Aichhorn's phrase) in a residential community.

He poses the problem on the first page. One in every three children in English correctional institutions, he says, remains unreformed, "many of whom represent for the rest of their lives a threat to society and a reproach to our educational methods. What is wrong with our correctional institutions that they achieve such meagre results? The aim of this book is not only to seek an answer to that question, but also to try to put forward a constructive alternative to present methods." Briefly, that constructive approach is the use of group therapeutic techniques within the framework of a system of shared responsibility.

Dr. Jones criticises our present institutions not because they are too much addicted to punitive authoritarianism, but because of a certain timidity of approach which he sees as stemming from excessive caution and rigidity at the centre—that is to say, at the government departments concerned. It is this, he says, which prevents the exploitation to therapeutic ends of the group forces that are available in any institution, by those who know how to use

them. He discusses briefly previous attempts to use those forces by empiricists like Aichhorn, "Daddy" George and Homer Lane, and gives an outline of the work of such people as Slavson and Moreno. A great deal of the remainder of the book is devoted to a fascinating description and examination of the methods employed by himself and the anonymous colleague to whom the book is dedicated at "Woodmarsh" school.

These methods, one gathers, are no longer in use at "Woodmarsh," and Dr. Jones makes no secret of the fact that the régime had to be changed as the result of official insistence on certain outward standards. "The apparent turmoil which this approach sometimes brought with it was not to be tolerated, whatever its value to the children." This official resistance both to the régime at "Woodmarsh" and to similar experiments elsewhere he attributes to the "irrational psychological defences" of officials and public. This is something which needs to be said and I am glad Dr. Jones has said it, though I think he is perhaps a shade less than fair to government officials who, while perhaps they might do more to educate public opinion, cannot in the nature of things move very far in advance of it. After all, the Home Office did recognise the Little Commonwealth (which Dr. Jones quotes as an example) and the subsequent withdrawal of that recognition was due as much to Lane's intransigence and folly as to any other cause.

However, I must not seem to attach more importance to this incidental aspect of what Dr. Jones has to say than to the real meat of the book. His chapters on "Love and Authority," and "The Discipline of Circumstance" I should like to see as compulsory reading for all school and institution workers. Indeed the whole book is a most useful, and in some respects unique, addition to the literature of group therapy applied to behaviour problems.

We still await a scientific assessment of the relative values of the kind of approach Dr. Jones advocates and the more orthodox methods commonly employed; Dr. Jones's intervention in the debate is too obviously *ex parte* to fill that role. But it contains a most interesting appendix which is at least a tentative approach to such an assessment. This is an account of the results of certain tests that were administered to the children in four schools with different attitudes to authority and differing degrees of permissiveness. The results were not very conclusive, but they do at least reveal that children who enjoy a permissive and "loving" type of régime have a much more positive attitude to adults and are more easily able to assimilate adult norms.

Although Dr. Jones does not attempt to conceal the direction of his own sympathies, this is something more than a mere account of the author's own experience, and is a much more weighty and scholarly piece of work than some of those other books which do no more than describe the author's own work.

W. D. Wills

HANDBOOK OF ABNORMAL PSYCHOLOGY. Edited by H. J. EYSENCK. [London: Pitman Med. Publishing Co., Ltd. 1960. £6.]

EXPERIMENTS IN PERSONALITY, Vols. I and II. Edited by H. J. EYSENCK. [London: Routledge and Kegan Paul. 1960. £2 each volume.]

BEHAVIOUR THERAPY AND NEUROSIS. Edited by H. J. EYSENCK. [London: Pergamon Press. 1959. £3 2s.]

It is now no longer a question of agreeing or disagreeing with Professor Eysenck's approach to psychopathology. With Herculean strength, he and his co-workers, over the years, have amassed and presented empirical data for all to read who are working in the field of para-medicine, including the criminologist. It is now up to others if they wish to disagree to carry out their own investigations or to suspend judgment. This is not suggesting that the works of Eysenck and his collaborators are non-controversial. On the contrary, they are as provocative in the present as those of their principal opponent, Freud, were in his time; and yet there is enough room left for those willing to manoeuvre towards a future synthesis.

The monumental *Handbook* of over 780 pages, written by twenty highly competent contributors, falls into three parts. *Experiments in Personality* appears in two volumes, and, with its emphasis on drug studies, genetics and statistics is the logical outcome of Eysenck's earlier *Dynamics of Anxiety and Hysteria*. His *Behaviour Therapy and Neurosis* shows how theory can be translated into therapeutic action. Part I of the *Handbook* deals with the description and measurement of abnormal behaviour in terms of sensorimotor, perceptual and ego functions and thought processes. Part 2 deals with the causes and determinants of abnormal behaviour, such as genetics, conditioning, learning and environmental factors. Part 3 deals with experimental studies and modification of psychopathology, concerning itself with the effects of drugs, psychotherapy, electro-shock and surgical treatments.

For the criminologist the core of the work on delinquency is contained in Part 2 of the *Handbook*, in Dr. Cyril Franks' chapter on "Conditioning and Abnormal Behaviour." For the psychologist it is essential to study all twenty chapters (in addition to the other books) in great detail, especially those by H. J. Eysenck, Gwyn Jones, R. W. Payne, G. Granger and J. Inglis, to single out but a few. Cyril Franks with R. Willett points out that at least two studies (Glucks and Miller) have shown that, although both introverts and extroverts can become delinquents, it is the extroverted children who tend to become the habitual juvenile and adult delinquents. It may be that "psychopathic" behaviour can be further resolved into two broad sub-groups: (i) *asocial* offenders who do not conform to society and (ii) *antisocial* offenders who are against society. Franks' and Willett's hypothesis is based on the finding that certain psychopaths have great difficulty in forming conditional responses,

and that, once formed, these responses are soon extinguished. These psychopaths are also extroverted in personality, and unable to learn adequately from experience or punishment. These "true" psychopaths are *asocial* in so far as they are unable to learn the rules of society—in short, are difficult to condition and score high on extroverted and neurotic tests. In contrast, the *antisocial* "psychopaths" seem to be very capable of conditioning and of learning the rules of society, albeit they learn society's *undesirable* rules. This latter group is likely to give a high score of introversion in tests. It is admitted that, despite D. Lykken's only partial confirmation of this, the theory, as yet, rests on slender evidence. Fruitful further research, however, is likely to follow, as recent studies by A. Bartholomews, J. Field, A. Tong, R. Andry and others have shown. Franks' and Willett's reasoning, of course, fits well into Eysenck's framework of psychopathology, where he shows diagrammatically in Chapter 1 the two-dimensional factor-analytical vectors of neuroticism and introversion-extroversion at right-angles to each other. Resultant plotting shows in the introversion-neuroticism sector such syndromes as: (i) mixed states; (ii) depressives; (iii) obsessionals and (iv) anxiety states; and in the extroversion-neuroticism sector such syndromes as (i) hysteria and (ii) psychopathy. In recent years Eysenck and his team have laudably concerned themselves with the effects of drugs on the nervous system and observed behaviour under drug stimulation. Accordingly, it has been postulated and demonstrated that introverts condition readily because of an effective exaggeration of the excitation process, and that extroverts condition poorly because of an effective exaggeration of the inhibition process. Thus by giving either group (introverted or extroverted) the appropriate stimulant or depressant drug, a stimulant drug would be expected to increase excitation and consequently ease conditioning, thus making a subject artificially more introverted. Conversely, a depressant drug would be expected to increase inhibition, reduce ease of conditioning and thus make a subject more extroverted. This was shown to be the case. Further antisocial psychopathic subjects who already condition well and are introverted, appear to be in a state of cortical excitation and therefore seem to require a very large dose of a depressant drug to sedate them; whereas those *asocial* "extroverted psychopaths," who already condition poorly and are presumably in a state of cortical inhibition, seem to require a very large dose of a stimulant drug to have a stimulant effect, whereas a relatively small dose of a depressant drug may be required for complete sedation. Confirmatory evidence, though not entirely forthcoming from A. Bartholomews, comes from Shagass and indirectly from William McDougall. Unlike Pavlov, who was forced to infer the properties of central processes from observation of peripheral changes, Shagass was fortunate in having the well-established techniques of electroencephalography readily available for the more direct observation of central processes. Eysenck, in the second volume of the second book under

review, together with his colleagues such as Emer Treadwell and others, follows up this drug field by showing how difficult it is simply to divide drugs into: (i) hypnotic drug (Doriden) or (ii) tranquillising drug (meprobomate) or (iii) depressant drug (amphetamine being a stimulant and chlorpromazine being a depressant). He demonstrates the efficacy of testing the various drugs by the use of Sir Ronald Fisher's "discriminant function analysis" which is particularly based here on the generalised "canonical variate analysis" technique. What these implications hold for the immediate future of delinquents remains yet to be seen. It is clear, however, what Eysenck thinks. He makes no secret of the fact that, in the treatment approach, his sympathies lie with conditioning techniques and the appropriate use of drugs, in the belief that much abnormal behaviour, such as neuroticism, is possibly innate and transmittable via genes (as is very ably discussed by Peter Broadhurst in the *Handbook*). Eysenck cites the famous Cambridge-Somerville Youth Study as showing the shortcomings of the psycho-analytical orientated treatment approach, and is obviously more impressed by the successes of the behaviour therapy approach, as discussed and demonstrated by Wolpe and Gwyn Jones and others in *Behaviour Therapy and Neurosis*. He points out (despite the correspondence by H. Mannheim and others) that the Youth Study and similar psycho-analytically oriented projects give at best only a fifty-fifty success rate for those who have been treated psycho-analytically and those who have received no treatment at all; whereas behaviour-therapy, he claims, shows a better success rate than chance, and is also a speedier remedial weapon in the fight against psychopathology. As an opponent to non-behavioural therapy he nevertheless quotes that doyen of psycho-analysts, Dr. Edmund Glover, as stressing the need for more carefully controlled experiments in this field, and he resonates sympathetically to Paul Meehl's eclectic conceptionalisation of the whole topic. Gwyn Jones, in quoting E. J. Shoben, also assumes a conciliatory position between the psycho-analytical and the behavioural approach. The reader, however, is left in no doubt by these three books as to where the editor and his team are going and, essentially, in which direction they intend to march further (it being recalled that Eysenck's *Dynamics of Anxiety and Hysteria* (1957) has started to set the pace and the direction for his team in the field of abnormal psychology by challenging orthodoxy). The exciting thing about Eysenck and his collaborators, who are so skilfully using the hypothetico-deductive method, is that, irrespective of whether the future will prove or disprove the core of their hypotheses, they continue to labour and leave it provocatively to others to decide for themselves, on producing their own findings, whether to bat with or against Eysenck and his team.

R. G. Andry

REVIEWS

ALCOHOLISM AND CRIMINALITY. By WILLIAM and JOAN MCCORD. [London: Tavistock Publications. 1960. 193 pp. 35s.]

MR. AND MRS. MCCORD include in their exhaustive work on the *Origins of Alcoholism* a chapter on alcoholism and criminality, and compare the factors that lead to alcoholism as opposed to the factors that lead to criminality. Their results are based on the examination of 255 male subjects, average age nine years, who were considered to be potential delinquents and were under observation for ten years by social workers, doctors and psychiatrists. An additional 255 subjects, the normal group, were also interviewed and observed for the same length of time.

They found that criminals as well as alcoholics differ significantly from the normal in that they more often came from families in which sexual deviance had occurred in the sense that either an illegitimate child was a member of the family, or that one of the children was a victim of incest. It was also found that criminals had been subjected more significantly than the normal to submerged resentment on the part of the mother. The tension producing conditions resulting in criminality were neurological disorder, parental conflict, incest or illegitimacy in the family, martyr complex in the mother, and maternal sexual deviance, usually promiscuity. In contrasting the causes of alcoholism and criminality, it was found that whereas absence of maternal affection resulted in alcoholism if the father was present in the home, it was productive of criminality if the father was absent. Whereas the attitudes of the father and mother toward the son were significantly related to alcoholism when they produced conflict over dependency desires, they were significantly related to criminality when they extinguished dependency desires. Whereas boys disciplined non-punitively (other than by physical hurt) by their mothers were more likely to become alcoholics than criminals, those disciplined punitively by the mother were more likely to become criminals than alcoholics, and whereas parental antagonism was particularly productive of alcoholism, parental indifference was more productive of criminality. Religion or its absence was not related to criminality, nor was paternal alcoholism significantly related to the son's alcoholism, but it was found that paternal criminality was significantly related to the son's criminality.

Thus two prevalent types of social deviance, namely alcoholism and criminality, appear to a large extent to be by-products of society and the environment. Both occur primarily among the male population, both are essentially destructive forms of behaviour.

It seems difficult to criticise such an exhaustive survey, and indeed this is a remarkable work. The main criticism would seem to be that the group represented were certainly not indicative of a cross-section of the American social scene, most of them coming from the lower strata, where through

poverty, ignorance and the loosening of morals, one might expect to find more aggression and criminality than in other classes of society. The other main criticism is of the loose use of the phrase "neural disorder." Not once is an explanation given of what type of neural disorder. One is left wondering if they are referring to the epileptic psychopath who figures high in criminal records. However, because of the large numbers studied over this long period of time and the extensive statistical cross-checking involved, this can be considered a major work on the subject of alcoholism and criminality.

Lincoln Williams

LAW FOR THE RICH. By ALICE JENKINS. [London: Gollancz. 1960. 95 pp. 15s.]

ABORTIONS performed by unqualified and unskilled practitioners raise one of the most pressing social problems of our times. At a conservative estimate there are upwards of 120 such illegal operations each day. The trail of suffering in the shape of the disability or even death of the mothers of young families is well known to sociologists. The law relating to this matter is unenforceable and is in contempt, and it should be altered so that what is at present available to the wealthy should come as of right into the range of all; for no woman should be forced to bear a child against her will.

Successive Governments have fought shy of the whole question of abortion. It is so highly charged emotionally that some section of public opinion would certainly be antagonised whatever was said or done; and this means that votes might be lost. But there was an Interdepartmental Committee on Abortion which issued its Report in 1939. Its chief recommendation, namely, that "the law should be amended to make it unmistakeably clear that a medical practitioner is acting legally, when in good faith he procures the abortion of a pregnant woman in circumstances which satisfy him that the continuation of the pregnancy is likely to endanger her life or seriously impair her health," was forgotten in the years that followed. The war came as a fearful blow to many such hopes.

Now these hopes are revived, thanks largely to the work of the Abortion Law Reform Association and it may be that the present Bill will become law. Dr. Glanville Williams in his valuable Introduction goes a long way towards demolishing the arguments that are commonly brought in opposition to any suggested reform. The truth is that there can be no rational objection of crucial importance to the proposed change. The religious objections are doubtless more serious in the eyes of the minority who subscribe to them. But that the views of such a minority should be imposed by law upon us all is another matter altogether.

This, then, is the theme of Mrs. Jenkins' book, a book that should be in the hands of everyone who wishes to understand the contemporary scene.

With admirable restraint she develops her argument; and the history of the movement for reform of the abortion laws is set out at first hand by one of the chief protagonists. She knew almost everyone who was involved and her account of the early struggles against frank hostility or, worse still, baffling indifference is one that commands respect.

J. A. Waycott

A MINORITY. By GORDON WESTWOOD. [London: Longmans. 1960. 216 pp. 30s.]

THIS report on the lives of 127 male homosexuals in Great Britain was prepared for the British Social Biology Council. It contains a great deal of useful information concerning the homes, social background, sexual and general behaviour of those interviewed. The report has the merit that the great majority of the "contacts" had not been in trouble with the police, although they sought fully fulfilled sexual lives. The report, with its strong social bias—rather than a medical or psychological one—attempts to explain how the "contacts" behave, and not why they do so. However, some cherished theories are not borne out, *e.g.*—less than one half of those interviewed had a disturbed home background.

Mr. Westwood attempts to assess any likely change in homosexual behaviour in the event of the law permitting homosexual acts in private between consenting adults. He makes a strong case for the view that while there would probably be an increase in the frequency of activities among those already homosexual in outlook, the evidence does not support the supposition that males with normal heterosexual tendencies would be tempted to indulge in homosexual acts.

I found the book with its modest claims, honest, well documented and helpful in one's constant search towards greater knowledge and understanding.

Jean Graham Hall

IN SOME AUTHORITY. By FRANK MILTON. [London: Pall Mall Press. 1959. 168 pp. 16s. 6d.]

THIS book commences with a fascinating account of the English Magistracy. It engages one's attention to a degree which is only bettered when the author unravels and explains the daily as well as the more unusual happenings in magistrates' courts both of the metropolis and the country. It is an ideal book for those seeking an interesting and authentic introduction to what might seem an overwhelmingly intricate pattern. But it can also intrigue the practitioner who, until reading the book, considered himself very familiar with the subject-matter.

The author is a metropolitan magistrate. His writings reveal a pulsating

medley of humanity in trouble. Drudgery and frustrations are relieved by flashes of high comedy. In reading this book it is patent that in his position of authority the author respects those who appear before him in whatever capacity. I am in a position to state categorically that daily occurrences in the North London Magistrates' Court prove that the respect is mutual.

Jean Graham Hall

THE PSYCHOANALYTIC STUDY OF THE CHILD. Edited by R. S. EISSLER *et al.* Vol. XV. [New York: Internat. Univ. Press. 1960. 481 pp. \$8.50].

EACH year we have to express our thanks and admiration to the editors for bringing together papers and symposia of the first importance in this area of psychological study.

A subject of increasing importance is that of development and in this volume Dr. John Bowlby's work on the application of the ethological approach comes up for special critical appraisal. There his thesis on the effect of child-mother separation is reconsidered in the light of his concept of grief and mourning in early childhood which he regards as a development of Freud's essay, "Inhibitions, Symptoms and Anxiety." He queries the alleged importance of loss of the breast at weaning. The issue is diluted in some detail by Anna Freud, Max Shear and René Spitz. Dr. Saudler contributes an interesting reappraisal of the super-ego concept.

Psychoanalysis is increasingly geared to the problems of organic defects in childhood and then psychic conflicts. Some seven years ago Pasamanick and others studied birth trauma and put forth the concept of a "continuum of reproductive casualty." Since then psychopathologists have rightly turned their attention to the possible psychopathic consequences.

This volume gives us their papers on physical handicaps, *e.g.*, "Cryptorchis" by Peter Blos, "Congenital Deformity" by André Lussier, and "Temporal Lobe Damage" by May Jarvis.

Thus with the passage of time psychoanalysis becomes geared to other issues in the over-all development and vicissitudes of the child.

E. M.

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